

RECENT ADMINISTRATION IN VIRGINIA

BY
F. A. MAGRUDER

A DISSERTATION

Submitted to the Board of University Studies of The Johns
Hopkins University in conformity with the requirements
for the degree of Doctor of Philosophy
1911

BALTIMORE

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PREFACE.

Since the Constitutional Convention of 1902, and to no small extent as a result of the instrument framed by that body, the state government of Virginia has rapidly expanded its administrative functions. It is the purpose of this study to describe that expansion, and to contrast the present administration with that of the period covered by the constitution of 1869. In some few instances the administration is traced from ante-bellum days, but in the main the study covers the period since 1869, with special emphasis upon the present system.

The kind assistance of Professor W. W. Willoughby and the invaluable courtesies extended by the Virginia State Library and by many of the state officials are gratefully acknowledged.

F. A. M.

RECENT ADMINISTRATION IN VIRGINIA.

CHAPTER I.

PUBLIC EDUCATION.

I. PUBLIC SCHOOL SYSTEM.

Unsuccessful Attempts to Establish Free Schools.—Before the Civil War, Virginia, like the other States forming the Southern Confederacy, was without a system of public free schools. In 1779, before the independence of the State had been fully realized, Thomas Jefferson and George Wythe, revisers of the colonial laws, had introduced into the General Assembly a bill providing for an elaborate system of education. At first the plan was received with enthusiasm; but as the measure proposed that the College of William and Mary, under an improved form, should be the university at the apex of the system, and as that institution was under Episcopalian influence, the Dissenters after a while began to apprehend some secret design of a preference for that sect, and the measure failed to pass.¹

Under the influence of Jefferson an act establishing primary schools passed the General Assembly in 1796. This act provided for the election of three "aldermen" for each county, in whom all supervision was lodged. The total expense was to fall on the county. The following clause prevented the introduction of this primary system: "The court of each county . . . shall first determine the year in which the first election of said aldermen shall be made, and until they so determine no election shall be made."² The court, composed of all the justices of the peace, represented the larger taxpayers of the county, and these were unwill-

¹ Ford, Writings of Thomas Jefferson, Vol. II, p. 220, and Report of the Commissioner of Education, 1876, p. 399.

² Acts, 1796, c. I.

ing to place a tax upon themselves for schools to which they would not have sent their children.

In 1846, following an enthusiastic educational convention which had been held in Richmond the preceding year, the General Assembly passed an act providing for "a free school system."¹ But this act, like that of 1796, contained what was in fact a nullifying clause: it required the assent of two thirds of the electors of any county before it could go into effect there. The insincerity of a bill which required a two thirds majority was so apparent that during the same session certain counties were granted permission to introduce public free schools, if the majority of the electors should vote affirmatively. Though the plan was adopted by nine of the counties, it seems to have survived until the Civil War in Norfolk County only.² Conducted without central supervision, by local officers who received only nominal pay, success could hardly have been expected.

The Literary Fund.—Though the State failed to establish a free school system, it had, since 1810, made an inadequate provision for poor white children through the Literary Fund.³ In February, 1810, the General Assembly enacted that "all escheats, confiscations, fines, penalties, and forfeitures, and all rights in personal property accruing to the Commonwealth as derelict, and having no rightful proprietor, shall be appropriated to the encouragement of learning"; and the auditor was ordered to open an account to be designated "The Literary Fund."⁴ By an act passed the next year the management and purpose of the fund were more definitely provided for. The governor, lieutenant-governor, treasurer, attorney-general, and president of the court of appeals were made a corporate body known as "President and Directors of the

¹ Acts, 1846, c. 40-42.

² See Virginia School Report, 1885, Part III.

³ In Norfolk, public free schools were established in 1850 by an ordinance of the city council; and by 1858 four schools were supported by a \$4.00 capitation tax. Petersburg had also established several small free schools.

⁴ Acts, 1809-10, c. 14.

Literary Fund." This board was to invest the funds and to dispose of the interest as directed by the General Assembly. The fund was "to provide a school or schools for the education of the poor in each and every county of the Commonwealth."¹ By an act of 1816 a debt paid to Virginia by the Federal Government was added to the small fund which had accumulated. This payment was a loan for the War of 1812, and amounted to \$1,210,550.

In 1818 the first appropriation was made from the interest of the fund. It consisted of \$45,000 annually for the education of white children and \$15,000 annually for the founding and sustaining of the University of Virginia. The \$15,000 for the University continued unchanged in amount until the Civil War; but, as the Literary Fund increased, the annual appropriation for the education of white children gradually increased until 1861, when it reached \$160,530.² This fund was apportioned among the counties by the president and directors of the Literary Fund, and was dispensed, in each county, by an optional number of commissioners appointed by the county court. The money was apportioned by the counties according to white population. The commissioner of a locality would appoint as many "indigent" pupils as the appropriation would allow, and for these he would pay a private school-teacher a definite sum for every day the pupils were in actual attendance.

In 1821 the General Assembly resolved that, "When the annual income of the Literary Fund shall exceed \$60,000 the surplus shall be given to such colleges, academies and intermediate schools, as the general assembly may direct."³ An act of February, 1829, allowed 10 per cent. of the allotment to be used for building school-houses, provided the locality should pay three fifths of the cost of erection. This act also provided that \$100 of the fund might be used for employing a teacher if the patrons raised a like amount.

¹ Acts, 1810, c. 8.

² Documents, 1859-60, Doc. No. 7.

³ Acts, 1821, c. 2.

In this event the school was to be free to all. In 1836 the fund exceeded \$60,000. Then, instead of carrying out the resolution to give the surplus directly to colleges, academies, and intermediate schools, the decision was made that it should be given to the commissioners for primary schools, allowing them to apply the surplus in any county to academies or colleges.¹ Only seventeen academies received the slightest benefit.² Afterwards, by an act of March 8, 1842, an annuity of \$1,500 was allowed the Virginia Military Institute from this fund.

In 1851 the second auditor reported that out of 65,370 poor white children only 31,486 were actually schooled, and these were taught an average of 54 days a year at an average cost of 4 cents a day.³ The new constitution of the same year provided that at least one half of the capitation tax should go to the fund,⁴ and in the session of 1852-1853 the General Assembly appropriated the whole capitation tax to the fund.⁵ Before the Civil War the greatest amount of money devoted to primary schools by the State was spent in 1859, when the average yearly attendance among 54,232 poor white children was 59 days at a cost varying from 2 to 6 cents a day per child. The total amount spent was \$160,530.⁶

The Constitutional Convention of 1861 appropriated the income of the fund to the military defense of the State, but in 1824 the General Assembly had already appropriated from the principal of the fund \$180,000 in the form of suspended debts to the University of Virginia. The same was done in 1850 for Richmond Medical College and Emory and Henry College; \$25,000 for the former, and \$18,000 for the latter. Between 1810 and 1871 \$440,837 was lost by investments. Hence in 1871, when the first annual report of the

¹ Acts, 1836, c. 4.

² Southern Literary Messenger, Vol. VII, p. 631.

³ Report of Social Auditor, 1851, Vol. III, p. 33.

⁴ Constitution, 1850, Art. IV, Sec. 24.

⁵ Acts, 1852-53, c. 26.

⁶ Documents, 1859-60, Doc. No. 7.

state superintendent of public instruction was issued, the available funds amounted to \$1,596,069.¹

On October 1, 1910, the fund was \$2,308,300, of which about \$1,800,000 was invested in 3 per cent. state bonds, and about \$500,000 in loans for public school buildings bearing 4 or 5 per cent. interest. The fund is accumulating to the extent of about \$80,000 a year, derived principally from state fines. Until the present decade the accumulation was about \$30,000 annually; and in fact in some years it fell off to almost nothing. The fines were not well collected, even when reported to the state auditor; but now those that are reported are properly collected, the loss being due to local magistrates who fail to report fines imposed. The bulk of fines are imposed in cities; and if the judge of the police court believes that the accused will pay his fine, he is apt to be charged with the violation of a city ordinance; but if he has to serve his term, he is likely to be charged with a violation of the laws of the State in order that his jail board may be paid by the State.

Establishment of the Public School System.—The Constitutional Convention of 1868 was composed of one hundred members, of whom two thirds represented the radical party. The radicals were twenty-four negroes, fourteen white Virginians, thirteen New Yorkers, one member each from Pennsylvania, Ohio, Maine, Vermont, Connecticut, South Carolina, Maryland, and the District of Columbia; two from England; and one each from Ireland, Scotland, Nova Scotia, and Canada.² To this unwelcome cosmopolitan assembly Virginia owes the constitutional provision for the establishment of the first state-wide free school system.

The next General Assembly was controlled by the coalition of the conservative Republicans and the conciliatory Democrats. Faithful to their constitutional pledge, they

¹ School Report, 1871, p. 198.

² Eckenrode, "The Political History of Virginia during the Reconstruction," in Johns Hopkins University Studies in Historical and Political Science, Ser. XXII, Nos. 6-8, p. 87, note.

appointed Rev. W. H. Ruffner state superintendent of public instruction, and directed him to draft a plan fulfilling the constitutional provision.¹ There were fifteen applicants for the position, but Dr. Ruffner² had the support of Robert E. Lee, and after receiving the caucus nomination his election by the General Assembly was unanimous. Within thirty days his plan was drafted, and with a few modifications was made law. Two years later Superintendent Ruffner wrote: "Acting under a constitution whose provisions for education they did not fully approve, her [Virginia's] legislators, at their first meeting, enacted laws in strict conformity with its requirements. Entertaining in their own minds serious doubts of the undertaking, and meeting with opposition from others, they nevertheless determined not merely to comply with the constitution as a matter of form, but to make the experiment in good faith."

The Virginia Educational Journal for May, 1870, expressed the views of many Virginia people: "If any real good is to come out of the proposed trial of public schools in Virginia, we are perhaps fortunate in having as the director thereof one who seems to be so enthusiastic in praise of the system generally. The people of this State have consented, though, it shall never be forgotten, under the persuasive influence of the bayonets of the United States Government, to make trial of a mode of education, against which their judgment and observation have for years revolted. Having pledged, however, the faith of the State to this work,

¹ School Report, 1872, p. 15.

² William Henry Ruffner, the "Horace Mann of the South," was born in 1824 at Lexington, Virginia, where his father was president of Washington College. There he received the degree of bachelor of arts at the age of eighteen, when he delivered an oration on "The Power of Knowledge." Three years later he received the degree of master of arts. He became a leader in Christian and temperance work; studied theology at Hampden Sydney and at Princeton; was chaplain at the University of Virginia; married in 1850; was pastor of the Seventh Presbyterian Church, Philadelphia. On account of ill health from overwork he retired to a Virginia farm. He was opposed to slavery, though he was never disloyal to his State. From 1870 to 1882 he was superintendent of public instruction; he was superintendent of Virginia's first State Normal School from 1884 to 1886; he retired near Lexington, and died in 1908.

no good would result from a discussion of the merits of such a system. We must swallow the dose now.”¹

When the public free school system was established by the constitution of 1869, there were three sources of opposition; first, among the well-to-do, for even to those in moderate circumstances the public free school meant charity, because the Literary Fund which had distributed charity to “indigent” children was associated with a common school system; second, there was a strong sentiment in favor of church schools; third, it was felt that for 700,000 whites to educate themselves and 500,000 colored was a Herculean task in view of the prostrate economic condition of the State. Beside the lack of individual capital to repair the losses of war, the State had not yet adjusted a \$45,000,000 ante-bellum debt, bearing 6 per cent. interest.

Organization of the Public School System.—The public free school system went into effect in the fall of 1870. It was modeled upon tried systems; and instead of the decentralized district system which had already proved unsatisfactory in New England, a centralized system was, from necessity, at once inaugurated. The administrators were a state board of education, a superintendent of public instruction, division superintendents, and district trustees.

The state board of education was composed of the governor, attorney-general, and superintendent of public instruction. It had all the powers hitherto vested in the board of the Literary Fund, such as the investment and distribution of funds; but the second auditor, a special officer created in 1823 to take charge of the state debt and special funds, continued a custodian of the fund. The duties of the board were the making of by-laws, the appointing of division superintendents and trustees with the consent of the Senate, the hearing of appeals from superintendents, and many other duties usually belonging to such a board.² The state superintendent of public instruction was elected every four years

¹ Educational Journal of Virginia, Vol. I, p. 223.

² Acts, 1869-70, c. 259.

by a joint ballot of the General Assembly.¹ To the division superintendents he was an intermediary court and a collector of reports; to the boards he was an apportioner of funds which were distributed according to the number of children between five and twenty-one years of age. In brief, he was both the pivot and the motive power of the system.²

The division superintendents, of county or city, were elected by the state board, with a salary not exceeding \$350 a year. The duties included supervision of district boards, collection of reports, examination of teachers, and visiting of schools. The questions for examinations were prepared by the state board, but in practice the division superintendents determined their standard for grading the papers and, in fact, certificated whom they pleased.

The district board of trustees was a corporate body of three members elected for three years by the state board. The district coincided with the township or "magisterial district," and the trustees received, from the district funds, a sum not exceeding \$2 a day for time actually spent in the performance of their duties. These were to provide buildings, select teachers, furnish books for indigent children, take the census, submit questions of district school taxes to the electors, suspend pupils, and perform a number of minor duties.³

Such was the original organization; but the next year the district trustees were organized into county school boards,—corporate bodies, composed of the county superintendent and all the district trustees of the county.⁴ The board met annually to examine all reports concerning school funds, including the books of the county treasurer, and to recommend an appropriation for the following year to the county supervisors who determined the county and the district school rate.⁵

¹ Acts, 1869-70, c. 15.

² Acts, 1869-70, c. 259.

³ Acts, 1869-70, c. 259.

⁴ Acts, 1871-72, c. 107.

⁵ Acts, 1871-72, c. 348.

Decentralizing Tendencies.—Although Dr. Ruffner, state superintendent of public instruction from 1870 to 1882, was an enthusiastic supporter of a public school system, he was an advocate of a decentralized system. In 1874 he wrote an article deploring centralization, under the title: "State Uniformity of text books; Tending to Despotism, Corruption and Intellectual Death." The article ended triumphantly with the sentence: "*Vive la République.*"

The constitution provided for uniform text-books, but the superintendent oddly construed it to mean uniform in any one school or locality, so he prepared at first a double, afterwards a multiple list from which the local school officers selected. In 1875 he had a law passed providing for sub-districts in any county whose school board desired them. This gave the patrons of a single school almost absolute control of their school.¹ Few counties tried this township meeting idea which was so foreign to Virginia. Today this law is dead letter, though the patrons often supplement the salary of teachers by local subscriptions.

Two years later the county trustee electoral board, composed of the county superintendent of schools, the county judge, and the commonwealth-attorney, was created to elect and dismiss district trustees, and it thus took over a function hitherto performed by the state board. This board also heard appeals from the district boards of trustees when any five patrons were dissatisfied with the decision of a district board of trustees.² Excepting a political interruption from 1882 to 1886, trustees have always been elected by this local board; but since 1902, when the office of county judge was dropped, the circuit judge has appointed a non-official as third member of the board. Dr. Ruffner also advocated the appointment of division superintendents by a special board. Fortunately this was never done. Should the election of the division superintendent be taken from the state board the latter would be left powerless. State electorates have never justified local school autonomy.

¹ Acts, 1874-75, c. 81; 1877-78, c. 161.

² Acts, 1876-77, c. 12.

The original act for the establishment of a public school system applied to cities as well as counties, except in so far as the charters and ordinances of cities and towns otherwise provided, and these exceptions were insignificant.¹ The following year it was provided that incorporated towns of more than five hundred inhabitants might, at the option of the town council, constitute a separate school district with financial control separate from county supervision or the county treasurer.² Cities with a population of more than ten thousand might have a superintendent, if the remaining part of the county had a population of fifteen thousand. But in these smaller cities the approval of the state board was required. The city council divided the city into districts; if wards existed, each ward became a district. According to the intent of the law, the council was obliged to furnish the amount of school funds asked for by the city school board, provided it did not exceed double the state appropriation or necessitate a school tax of more than three mills.³ Interpretations of this law, however, deprived the city school board of this power.

Centralization and Efficiency.—As we have seen, the system of education provided for in 1870 was centralized to an extreme degree in the General Assembly and a political state board. From 1870 to 1882 it gradually became less centralized. From 1882 to 1902 no noteworthy changes were made in the system; but, as we shall now see, the new constitution of 1902 has again centralized the administration in the state board of education. The centralization in 1870 was a matter of expediency, a means of forcing upon the people a system which the majority of influential whites did not favor; the centralization of 1902 is a matter of efficiency, a means of improving a system which practically all acknowledge to be a prime necessity for the progress of the State.

¹ Acts, 1887, c. 233.

² Acts, 1869-70, c. 259.

³ Acts, 1870-71, c. 276.

This centralization of power in the state board of education was brought about by Article IX, Section 132, of the constitution of 1902 which provides that: "It [the state board] shall have authority to make all needful rules and regulations for the management and conduct of the schools, which, when published and distributed, shall have the *force and effect of law* [italics mine], subject to the authority of the general assembly to revise, amend, or repeal the same." No state board in the union has stronger powers. As an example of this power, we find that in 1908 the General Assembly enacted a law¹ regulating in detail the construction of public school buildings. A state board of inspectors for these buildings was to accept no plans which did not fulfill all the requirements of the act; but the accompanying bill providing for a state board of inspectors for public school buildings failed to pass. This made the law of no effect. In 1910 the General Assembly again refused to create such a board. The state board of education, however, by regulation has provided that the building act of 1908 shall be enforced by the division superintendents, and that no school-house shall be built without the approval of one of these officers. As the division superintendents are dependent upon the state board of education for reelection, the state board has as complete control over the architecture of schoolhouses as if the General Assembly had provided the inspectors.

Another example of the power of the state board is a regulation which gives a division superintendent in a city "exclusive authority to assign to their respective positions all teachers and principals employed by the school board of trustees, and to assign them at his discretion," notwithstanding the fact that the General Assembly had provided² that teachers should be employed and dismissed by the school board of trustees. The state board of education also continues to administer the Literary Funds, and has been given full discretion and power in selecting text-books

¹ Acts, 1908, c. 187.

² Acts, 1906, c. 292.

instead of being restricted to a uniform list as it was by the constitution of 1869;¹ and it may enter into contracts with publishers.²

At the same time that power was concentrated in the board, the personnel of the board was changed so as to prevent the probability of graft or of ill-considered rules. It is now composed of eight members: the governor, the attorney-general, and the superintendent of public instruction, officers elected quadrennially by the people; three experienced educators elected for the same term by the Senate from a list of six eligibles, consisting of one from each of the faculties, and nominated by the respective boards of visitors of six specified state schools; and two division superintendents, one from a county and the other from a city, who are selected for two years by the preceding six members. The last two members cannot participate in the appointment of any public school official.

The election of the superintendent of public instruction was transferred from the General Assembly to the people, and the superintendent instead of the governor was made ex-officio president of the board. The debates of the Constitutional Convention show that three alternatives were considered; first, the General Assembly might continue to elect; second, the governor might appoint; third, the state board might select. The objection to the first was the certainty of political consideration; to the second, the temptation of a governor to select the educator who had proved to be his best political retainer; to the third, the fact that the superintendent himself has direct or indirect part in selecting five members of the board.

Revival of Education.—The general increased interest in public schools in Virginia during the past few years has come about in the following manner. By 1902, when the Constitutional Convention framed the plan for the new board of education, the generation which had opposed the

¹ Constitution, 1869, Art. VIII, Sec. 6.

² Acts, 1908, c. 292.

system of 1869, or in fact any system of public free schools, had largely passed away. The system, though inefficiently administered, had become a reality. Therefore, the committee on schools of the Constitutional Convention strove to remove the system as far as possible from party politics and to make it efficient. The former was accomplished by adding five non-political or educational members to the three so-called political members of the state board; the latter, by giving the board power to make laws governing school matters, subject only to the veto of the next General Assembly. Also, the Constitutional Convention provided for increased revenues. Since 1902 the state revenues have doubled.

While the Constitutional Convention of 1869 was in session the Peabody Fund came to assist in the establishment of public schools in Virginia. In 1902 the General Education Board came to revive education. The latter began its work with Mr. Robert G. Ogden of New York as its president. He was an enthusiastic advocate of education for the South. Previous to this the Southern Education Board, a body of educators who met annually for debate, had been organized, but it would have languished for funds had not the General Education Board come to its rescue. Mr. Rockefeller pledged \$100,000 per annum for ten years to the General Education Board.¹ In 1902 and 1903 Hon. Harry Saint George Tucker and Dr. Robert Frazer devoted eighteen months to educational field-work in Virginia under the auspices of the Southern Education Board.²

The Virginia Teachers' Association was revived between 1901 and 1906 under the presidency of R. C. Stearnes, now

¹ This was the beginning of the Rockefeller Fund of the General Education Board, which on June 30, 1911, amounted to \$32,246,377. The professor of secondary education at the University of Virginia is paid from this fund. It is his duty to visit and inspect high schools, and to encourage high school development.

² Under the auspices of the Southern Education Board, Dr. C. W. Dabney, of Nashville, Tennessee, issued *Southern Education Notes*, a bi-weekly which was widely circulated throughout Virginia.

secretary to the state board of education. In the spring of 1904 the Virginia Cooperative Education Commission, to cooperate with the General Southern Education Board, was organized with Governor Montague as temporary chairman and Dr. S. C. Mitchell as permanent chairman. The commission was to conduct an educational conference semi-annually, and its platform was as follows:

1. Nine months' schooling for every child.
2. High schools within reasonable distance of every child.
3. Well-trained teachers.
4. Agricultural and industrial training.
5. Efficient supervision.
6. Promotion of libraries.
7. Schools for the defective and dependent.
8. Citizens' education associations in every county and city.

At the next conference of this commission, which met in Norfolk, December, 1904, Professor Ormond Stone, of the University of Virginia, offered a resolution to the effect that Governor Montague and President Alderman, of the University, make a thorough tour of the State in May, 1905, in the interest of better education. Other educators and public-spirited professional men were invited to enlist. During the intervening six months Professor Bruce R. Payne, then of William and Mary College, as chairman of the committee on publications, kept the newspapers of the State filled with educational literature. In this so-called May Campaign one hundred of the ablest speakers of the State delivered three hundred addresses in ninety-four counties at one hundred and eight meetings; two hundred thousand pages of educational literature were issued; and fifty citizens' school associations were formed.

In the fall of 1905, upon the invitation of the Cooperative Education Commission, another meeting of superintendents and others engaged in educational work was held in Lynchburg. The following autumn the Virginia Educa-

tional Conference met, and it has met every autumn since that time. The conference is composed of the Conference of Division Superintendents, organized in the eighties; the State Teachers' Association, organized in 1901; the Co-operative Education Association, organized in 1904; and the School Trustees Association, organized in 1906.

In 1906 the superintendent of public instruction, J. D. Eggleston, the only first-class superintendent since 1882, came into office at the same time as Governor Swanson, who had himself, when a young man, taught a country school. The new school board created the board of five examiners and inspectors. These men at once entered with enthusiasm upon their work as field agents. Some of the results are shown graphically by the following table:¹

GROWTH OF THE VIRGINIA PUBLIC SCHOOL SYSTEM.

Year.	Enumera- tion. (Be- tween 5 and 21 years.)	Enrollment.	Daily attendance.	Percentage of attend- ance to enu- meration.	Percentage of attend- ance to en- rollment.	Months taught.	Teach- ers em- ployed.
1871	441,021	131,088	75,722	18.4	57.7	4.66	3,014
1875	482,789	184,486	103,927	21.3	56.3	5.59	4,262
1880	555,807	220,730	128,404	23.1	58.1	5.64	4,873
1885	610,271	303,343	176,469	28.9	58.1	5.92	6,693
1890	652,045	342,269	198,290	30.4	57.9	5.91	7,523
1895	665,533	355,986	202,530	30.4	56.8	5.95	8,292
1900	91,312	370,595	216,464	31.3	58.4	6.00	8,954
1905	580,618 ²	361,772	215,205	37.0 ²	59.4	6.40	9,972
1910	615,379 ²	402,109	259,394	42.1 ²	64.5	7.04	10,443

State Board of Education.—From 1870 until 1902, a period when the board was composed of two political ex-officio members and one elected by a political assembly, great progress could not have been expected; and it was not made. The addition of five educators to the board is one of the best results of the Constitutional Convention of 1902. Membership on the board has become a great honor because able, true men have been selected for it. In the

¹ The table on page 57, entitled "Growth of Expenditures," shows this development even more strikingly.

² Between 7 and 20 years.

selection of division superintendents the non-political members have few friends among the applicants to whom they feel under obligations, hence their votes are cast more impartially.

In 1910, when two frank, straightforward members of the board were superseded, it was believed by many that political attorneys for book corporations, friends of defeated applicants for the division superintendency, and persons actuated by political factional animus were the causes. However, there is no reason to believe that their successors will be any more open to improper influences: in fact, the system which restricts the membership of the board to members of the faculties of state schools is a reasonable guarantee of an efficient personnel.

Superintendent of Public Instruction.—From 1870 until 1905 the General Assembly elected only one noteworthy superintendent of public instruction; and it did not elect him originally, but twice reconfirmed him. The reference is to Superintendent Ruffner (1870–1882), who was practically named by General Robert E. Lee. It is generally believed that only one superintendent has profited from direct graft, but no investigation was made. This man is quoted as having said that he had been accused of many things, but never of having been a fool. It is told of another lovable superintendent that, after dozing off several times in a board meeting, he excused himself on the ground that, anyhow, the other members knew more about school matters than he did.

The present superintendent, J. D. Eggleston, the first one popularly elected, is the man for the place. The General Assembly, in all probability, would have elected Mr. Eggleston's opponent, who had been clerk in the department of education and had made friends among the influential legislators of the State. Mr. Eggleston, who had been for several years a division superintendent in North Carolina, was not in touch with those in authority, and it is probable that he would not have been elected by the General Assembly. But, having to "carry" the Democratic primary,

he had an opportunity to place himself before the people and to criticize the inefficiency of the department. This campaign brought information to him that there was graft in the department. An investigation centered this graft upon his opponent, and Mr. Eggleston's election was assured. In 1909 Mr. Eggleston was reelected by the people without Democratic competition. He spends two thirds of his time in doing field-work, while the clerk of the state board of education takes charge of the voluminous office-work. The clerk is practically the assistant superintendent of public instruction; and he too is making flying trips to educational rallies every few evenings.

Board of Examiners.—In the summer of 1905 the state board of education created a "board of examiners and inspectors" as directed by acts of the General Assemblies of 1903 and 1904.¹ The duties of this board were to make out all examination questions and grade all papers, and to act as lieutenants of the superintendent of public instruction for the general betterment of the public school system. Five young enthusiastic and energetic men were selected, and they took up their duties that fall with practically the unanimous approval of the educators of the State.

Formerly there had been in the State more than a hundred standards for teachers. The examination questions had been prepared by the state board of education, but the division superintendents had conducted the examinations and had graded the papers. Much partiality had been shown, not by failing to pass those who deserved to pass, but by granting permits after a sham oral examination or no examination at all. In fact, the salaries were so extremely low and competent teachers so scarce that the superintendents would set low standards in order to supply their schools. It was difficult for an efficient teacher to receive a salary commensurate with his or her worth when other teachers held certificates which indicated the same preparation. When the first examination questions were sent by

¹ Acts, 1902-03-04, c. 509; 1904, c. 101.

the examiners to the division superintendents, sealed, and the answers were returned, sixty per cent. of those examined failed to pass. This proper standard, however, could not be maintained, and a number of "emergency certificates" had to be granted. But this exhibition of the deficiency of public school teachers had its influence in the establishment of three additional state normal schools.

When the next General Assembly met in 1906, there was a sentiment hostile to the new board because of its cost (about \$15,000 per annum), because central inspectors were interfering with local inaction, and because many deficient teachers had lost their certificates or feared to lose them. The House of Delegates passed a joint resolution, with only one dissenting vote, to abolish the board of examiners and inspectors. In the senate committee nearly all of the college presidents and other educators of the State pleaded for the retention of the board. Mrs. Dashiell and Mrs. Munford, two public-spirited ladies of Richmond, made telling speeches for its retention. The senate committee reported the resolution with an adverse recommendation, and it did not pass. Between 1906 and 1908 the name "inspector" was dropped, the body being called merely a board of examiners. In the next session of the General Assembly (1908) concurrent resolutions were offered for the same purpose, but a vote was prevented. Between 1908 and 1910 the board of education made one member of the board of examiners a "supervisor of rural schools," but in 1910 a joint resolution again appeared, and was defeated in the Senate after a hard fight on the part of the educators of the State. In the summer of 1911 the state board of education abolished the board of examiners, and in the future, examination papers will be examined by assistants in the office of the superintendent of public instruction. Field-work will be continued by the supervisor of rural schools, the supervisor of colored schools, and two agents paid by the Peabody Fund; by the superintendent of public instruction; from time to time by the secretary of the board of education, and

the editor of the Virginia School Journal; and perhaps by others employed by the state board. It is a policy of the General Assembly to grant conditional aid to schools, and unless this aid is followed by the appointment of supervisors or inspectors this wise plan will miscarry. Many educators believe that the field agents should be given districts, that they may become acquainted with a particular section of the state; but the prevailing opinion is that they should be under the close supervision of the superintendent of public instruction.

Division Superintendents.—In 1870, when the General Assembly was drafting a law for a public school system, the House of Delegates thought that division superintendents should serve for several counties, especially where the counties were small in area or population. The Senate favored a superintendent for each county or city, and this view prevailed.¹ The same General Assembly provided that the salary of superintendents should be paid by the State, and should be based on population. It was not to exceed \$15 for each thousand of population, and \$350 was to be the maximum salary. The next year the city councils were allowed to supplement the salaries of division superintendents.² In 1874 the "Bourbons" manifested a disposition to abolish the office.³ What arguments they used the author does not know.

In 1877 the General Assembly increased the salary from \$15 a thousand of population to \$30 a thousand for the first ten thousand, and made \$200 the minimum salary; yet a county was not allowed to supplement the state salary. In 1908 the salary paid by the State was increased from \$30 to \$40 for the first ten thousand of population, with \$25 additional for each thousand between ten and thirty thousand, and \$15 additional for each thousand above thirty thousand; and the county was for the first time permitted to supplement the superintendent's state salary.⁴ With this increase

¹ Richmond Whig, June 29, 1870.

² Acts, 1869-70, c. 259; 1870, c. 308.

³ Richmond Whig, February 19, 1874.

⁴ Acts, 1908, c. 292.

the average salary of county superintendents was only \$514 per annum; and of the one hundred county superintendents only eight received as much as \$900 per annum.¹

Thus it is seen that, since the superintendency of Dr. Ruffner (1870-1882) no real progress has been made in the amount of salary, and therefore in the personnel, of division superintendents for counties. Considering the increased average standard of living in Virginia as the State gradually recovered from the necessary economy caused by the losses of war, and considering the recent universal depreciation of money values, the superintendents were remunerated better in 1878 than in 1908.

At this stage the General Assembly passed a law which allowed the state board of education to combine into larger divisions such counties as would not raise the salaries of its superintendents to a minimum of \$900.² The constitution of 1902 bestowed upon the board the power of combining counties; but knowing the opposition which would develop against this departure from a custom forty years old, the board prudently obtained the support of the General Assembly. Hence, at one stroke, by means of threats to combine counties under one superintendent, the county superintendents' salaries were raised from an average of \$514 to an average of \$980 per annum.³ In doing this, however, twenty-eight counties, nearly all small ones,⁴ and two cities were combined into fifteen divisions, thereby reducing the number of county superintendents from one hundred to eighty-seven.

¹ Virginia Journal of Education, June, 1909, p. 23.

² Acts, 1908, c. 292.

³ Virginia Journal of Education, June, 1909, p. 23. These salaries were distributed as follows: ten received \$1500 or more; twenty-eight received more than \$1000 and less than \$1500; twenty-six received more than \$900 and less than \$1000; twenty-three received less than \$900. Since 1909 many salaries have been further increased.

⁴ In Virginia thirty-three of the one hundred counties have (1910) less than 10,000 inhabitants. Excepting West Virginia, in all the remaining North Atlantic States there are only four counties with as few as 10,000 population. It would very likely be wise to combine these small East Virginia counties for all administrative purposes.

The guarantee of better salaries brought forward a number of superior men in 1909 when the superintendents were elected for the accustomed four-year term.¹ Many of the old incumbents had been in office for years, and were of estimable moral character; a number were Civil War veterans; and others were fortified by family and church relations. To replace these by young, more energetic, and more progressive men required a real interest in the betterment of schools. The state board met and elected those who had few or no competitors, and adjourned for a week. During this week the local politicians were busy. One would plead for his candidate because it would bring party harmony in a certain county; another would show that the dismissal of a war veteran would mean the loss of the county to the party; and where it was proposed to import a superintendent or to combine two counties a storm invariably arose.

When the second meeting convened, the board knew that it must "make progress slowly"; that totally to disregard influential and, in many cases, clean party men would mean a set-back to education by the next General Assembly, which was to meet the following winter. In many cases a compromise was made. In one case the election was on condition that the superintendent get an office assistant, the office work having been unsatisfactorily performed; in another, that a certain habit be discontinued; in another, that the one elected resign in two years if not giving satisfaction; in another, one who was a good administrator but knew no pedagogy agreed to employ an assistant to look after the pedagogical side; and another pledged himself to keep out of politics, having been too aggressive in support of the minority faction. In several cases members of the board acceded against their better judgment where a fellow-member wished to save a close personal friend. In several cases inefficient were retained for another four years be-

¹ Previous to this there had been little competition. In 1901 sixty-five places were uncontested and eighty-one were filled by reappointment (Richmond Times, May 15, 1901).

cause it was thought heartless to remove one who had made school work a part of his very life.

Among the hundred and three superintendents chosen, fifty were college graduates; about twenty more had attended college; and about thirty had never been in college. Of the seventeen superintendents above sixty years of age only four were college graduates. Of the forty-two above fifty, nineteen had never been to college. Of the forty-two under forty, all but four had attended college; but eight of the thirty-eight who had attended college were not graduates. Sixty-seven of the superintendents had taught school more or less; seven were farmers; six, lawyers; and four, politicians. Of the superintendents in office in 1910 about fifty have no other occupation, which is more than twice as many of this class as ever before; more than three-fourths make it their primary occupation. Though data are not available for a detailed comparison with former superintendents, the present personnel is beyond comparison superior to any former personnel, but yet is far from the ideal. A sufficient number of educated, progressive, energetic superintendents will not be obtained until the minimum salary is \$1,500.

To some this proposed increase in salary may sound extravagant. But when we consider that the salary of a rural mail carrier, who needs only an elementary school education, is \$1,000, it is ludicrous to expect efficient division superintendents at that figure, about that sum being now the average salary of county superintendents. When the matter is viewed in another way, we find that the superintendents now do not spend on an average of more than two thirds of their time in school work. If the salary were \$1,500, with the condition that the incumbent engage in no other business, the cost of service would be no more than at present, but the service would be much better. Half of the time of a competent man is not worth half so much as his whole time. A superintendent should have his undivided thought on his work. He should be able to attend state and national educa-

tional conferences, and to inspect the work of other States. The law making \$1,500 the minimum salary could allow the state board of education to combine counties not paying that amount. With this arrangement a first-class superintendent could afford to keep a stenographer who could do the multifarious routine work, such as making out reports, thereby allowing him to devote his entire time to visiting schools, planning rallies, and organizing extension work.

In 1909 the state board attempted for the first time to transfer superintendents from one county to another. The move met with such general opposition that it was successful in only six cases, all of which, however, have since proved the wisdom of the board. In fact, the school board of Alexandria County, which had four local candidates, petitioned for an experienced school man, promising to raise the salary from \$240 to \$1,200. The board sent the principal of the Danville school, whose salary had been \$1,500. At the end of one year the Alexandria County Board increased his salary as superintendent to \$1,800 and office rent.

In February, 1910, before the result of these few transfers could be determined, the House of Delegates passed a bill by a vote of 70 to 18 providing that only a citizen and a qualified voter of a division might be elected superintendent.¹ In the Senate the bill was reported from the finance committee by Senator Keezel, with an adverse recommendation, and it did not pass. It is interesting to speculate how this bill would have been reported had not Senator Keezel become intimately acquainted with the plans of the state board of education the preceding summer. The superintendent from Senator Keezel's county had been practically defeated for reelection because his efficiency had been impaired by age, though once he had been one of the best superintendents in the State. Senator Keezel, possibly the most influential member of the Senate, appeared before the board in behalf of this veteran superintendent, who was also a

¹ House Bill 85.

veteran soldier. On that occasion he is said to have used his influence against importing a superintendent into his county. The senator was successful. Had he not been heard, would the bill have been reported adversely? This well illustrates a practical difficulty constantly facing the state board; and the people of the State need to have patience if the board seems to "make progress slowly."¹

Many counties feel that the importation of an outsider is a reflection upon themselves. But when it is considered that a first-class county superintendent should have the administrative ability of a college president and the pedagogical knowledge of a professor of pedagogy, it would certainly be a surprising coincidence if such men could be found distributed as the Virginia counties are distributed. Nowhere else has administration been so successful as in Germany; and there even a mayor (*burgermeister*) of a city is called from a small city to a larger one, when he has succeeded in the small city. If a young man knows that success in a small county will place him in line for the superintendency of a larger and wealthier county, he will give his best to the smaller county that he may compete for the superintendency of a larger. The word "compete" is used advisedly, for the custom of promoting officials by transferring is competition; the custom of confining one to his own county is monopoly of the worst sort.

Since 1871 the city councils of the larger cities have supplemented the salaries paid the superintendents by the State, and in 1910 the average salaries of superintendents in cities of more than 10,000 inhabitants was \$1,853; the maximum was \$2,850, the minimum, \$1,200. Cities of less than 10,000 inhabitants are in practice either annexed to a county or superintended by the principal of the high school.

An important amendment to the superintendents' salary laws, enacted in 1910, allowed county or city school boards to supplement the salaries of superintendents from local

¹ This speculation is no reflection upon Senator Keezel. His service to the State is universally appreciated.

funds. The county supervisors are notoriously adverse to raising salaries. This amendment further provides that the county supervisors or the city council may not change a superintendent's salary during the term for which he is elected, though the school board may.¹ This is an excellent provision. Supervisors or councilmen, for retrenchment or for political reasons, may not injure the school system, but the school board is free to reward a deserving superintendent. And there is little danger that the school board will be extravagant in its rewards.

District Trustees.—Each of the five hundred and eleven school districts of the State has a board of three trustees. The county trustee electoral boards annually elect one trustee for each district of their respective counties for a term of three years; these trustees serve without pay, excepting the clerks of the district boards, who, according to law, "may be allowed, out of the district fund, an amount not exceeding three dollars for each teacher." The trusteeship in Virginia has never been of sufficient honor to attract a great number of progressive, educated men, and for this reason the need of well-paid division superintendents is felt the more. Some of the progressive councils of small towns have overcome the difficulty by paying the chairman of the school board a sum in excess of the "three dollars for each teacher." For instance, Woodstock, a town of fourteen hundred inhabitants, has wonderfully improved its public schools by paying the clerk of its school board \$100 annually. In this case the clerk is both efficient and interested. Of course, in this plan, as in any other plan where the incumbent devotes only a portion of his time to the work, there is danger of the clerkship's becoming a sinecure.

Teachers.—Although the public school system was unpopular in Virginia when it was founded in 1870, a great many cultured men and women became public school teachers from necessity. But as prosperity slowly returned, and as teachers' salaries did not increase proportionately, this

¹ Acts, 1910, c. 108.

class of young people were attracted to more remunerative professions or vocations. Certificates were easy to obtain, and until 1906 trustees were not prohibited from employing relatives. In 1909, after certification had been made uniform by the board of examiners, the 10,124 outstanding certificates were distributed as follows:¹

	White.	Colored.	Total.
Collegiate	473	26	499
Professional.....	617	157	774
Special.....	185	10	195
First grade.....	3,670	946	4,616
Second grade.....	1,532	336	1,868
Third grade.....	325	215	540
Emergency.....	956	676	1,632

From the above it can be seen that of more than 10,000 teachers only 499 held collegiate certificates and only 774 held professional certificates. This inferior preparation was noted by the state board of education, and the General Assembly of that year provided for the establishment of three new normal schools for whites. Two of these are now in operation, one at Harrisonburg and one at Fredericksburg. The third will open at Radford, probably in the fall of 1912. A second normal school for the colored is much needed. In 1870 practically all of the colored schools were taught by white teachers. Today practically all of the colored schools are taught by colored teachers; and of the 2,366 colored teachers only 183 have collegiate or professional certificates, while 676 are teaching on emergency certificates which are practically no certificates at all. Moreover, even with these normal schools the need is not solved. Unless the State uses its school funds as conditional aid to the localities and thereby forces up the salaries of professionally certificated teachers to a level with those paid in other states, these teachers educated by Virginia will flow out as the state cadets from the Virginia Military Institute have been doing for years. Most of the

¹ Report of Superintendent of Public Instruction, 1908-09, p. 438.

states bordering on Virginia pay their teachers higher salaries.

In 1909 the average annual salary for teachers, classified according to the character of the certificate, was as follows:¹

	White.	Colored.
Collegiate	\$596	\$198
Professional	450	246
First grade	272	221
Second grade	190	155
Third grade	147	135
Emergency	147	111

Consolidation and Transportation.—Until the recent revival of education in Virginia one-room schools continued to multiply. Since 1905 much success has been attained in consolidating rural schools into buildings with two, three, four, or more rooms. To facilitate this consolidation free transportation is being supplied in many localities. In 1905 nineteen wagons were used to haul pupils; in 1910 one hundred and seventy-one were used. These are wagons of all types, the best being a four-horse “kid car” which hauls fifty children. In some instances where a consolidation places several families an unreasonable distance from the school a patron is paid to haul his own and his neighbors’ children. Where the tax rate is not sufficient for public transportation and the pupils ride or drive individually, the attendance is apt to fall off in the spring; but when sufficient interest is aroused to bring about consolidation, the patrons are realizing that it is cheaper to pay taxes for a two-horse team than to send individually ten or twenty teams.

Augusta County has had more experience with transportation than any other county, having run from fifteen to twenty wagons for five years. During this period the number of school-houses has been reduced by 26 and the number of teachers by 7; and though the school population is less than it was five years ago, the enrollment and daily attendance are much greater, and the number studying higher

¹ School Report, 1908-09.

branches has increased from 140 to 300. The monthly cost of running a wagon an average of three miles is \$32.50. The daily cost per pupil is 7 cents.

High Schools.—It was clearly recognized in 1906 that the University of Virginia and the colleges could not fulfill their entire purpose until the wide gap between the graded school and the college should be filled. There were in that year only ten four-year public free high schools in the State, though there were 44 so-called high schools. From 1906 until 1910, as a result of state conditional aid and propaganda by the state department of education, the number of four-year public free high schools has increased from 10 to 83. The number of teachers has increased from 146 to 837; of these 537 devote their entire time to teaching in the high schools, while 300 teach for a part of the time in the grades.¹

In 1908 the General Assembly provided for the support, by the State, of a department of agriculture and domestic economy in one high school in each congressional district.² The idea was twofold; first, by granting the \$3,000 per annum, the district was compelled to provide a new, suitable building and a sufficient corps of teachers for the grades; second, the school was intended as an example to neighboring districts. These schools are equipped with a tract of land, thirteen acres being the average amount, a small stable, a team, and in some cases a small amount of thoroughbred stock. In some the principal works for a while each day with the pupils in the field; in others, the work is done by hired labor, the principal simply demonstrating to the pupils. The more earnest principals remain at the school during the summer to look after the demonstration plots. At various times the patrons are invited to attend lectures and demonstrations, the fathers in agriculture, the mothers in practical cooking and other household work.

The conception of these schools is excellent, and the

¹ Payne, *Five Years of High School Progress in Virginia*.

² Acts, 1908, c. 284.

experiment should become a permanent but improved system. First, the agricultural departments need to be brought under the supervision of the state agricultural college at Blacksburg. Second, instead of supporting the entire high school and in some cases a part of the graded school, the fund should be conditioned upon its use for the agricultural and domestic science departments. To enforce this latter condition there should be a high school visitor. Practically all of the rural high schools of the State are receiving conditional state aid (and most, if not all, of the state gifts to education should be conditional), and it is a lax business policy not to furnish the state superintendent of public instruction with a lieutenant to enforce the conditions attached to gifts of the General Assembly. This visitor could carry many valuable ideas from a high school in one part of the State to a high school in another. Still better, he could bring in ideas from other States, for he should be a specialist and informed as to progress in matters relating to high schools.

This same suggestion applies to the twenty-four high school normal training departments established by an act of 1908.¹ The clerk of the state board of education visited these departments in 1911, but he is too busy to visit systematically. The normal teachers of these departments train any high school pupil desiring the course, and in the spring conduct special classes for country school teachers. Some of the more enthusiastic and energetic teachers also visit surrounding schools during certain days of the week, where they do model teaching for half a day at each school.

When Superintendent Eggleston assumed office, he mentioned the need of "forty league boots" for the Virginia educational system. For the past four years she has been wearing them; but the following comparison will show that she must continue to wear them: "As the total population and the school population of Wisconsin are only a little more than that of Virginia, a comparison of the high school

¹ Acts, 1908, c. 67.

facilities of the two states furnishes the best statement of what Virginia should approach in this respect. The chief difference consists in the fact that the resources of Wisconsin are adequate to her educational needs and those of Virginia under the present system of taxation are not. Nevertheless in industrial, social, political and other intellectual enterprises, the Virginian must compete with the citizen of Wisconsin, so that it behooves Virginia to recognize the standard to be attained as rapidly as her funds will admit."

"The school year of 1908-09 for Wisconsin is here compared with that of 1909-10 of Virginia:

Number of four-year high schools in Wisconsin, 261.

Number of four-year high schools in Virginia, 83.

Number of high school teachers in the four-year high schools of Wisconsin, 1,377.

Number of high school teachers in the four-year high schools of Virginia, 341.

Total number of teachers in all grades of high schools of Virginia (1909-10), 837.

Total enrollment in four-year high schools of Wisconsin, 30,110.

Total enrollment in four-year high schools of Virginia, 6,968.

Total enrollment in all grades of high schools of Virginia, (1909-10), 12,400."¹

Compulsory Education.—Attempted legislation on compulsory education has always been thwarted by delegates from the "black belt" of the State. In the Constitutional Convention of 1902 the committee on schools reported a section favoring compulsory education; but when amended by its opponents it was far worse than if no mention of the subject had been made. Many of its advocates preferred eliminating the section, thereby leaving the General Assembly free to legislate as it should see fit, while others sug-

¹ Payne, Five Years of High School Progress in Virginia.

gested that the courts might not uphold such a law unless specifically allowed by the constitution. The resulting provision was as follows: "The general assembly may, in its discretion, provide for compulsory education of children between the ages of eight and twelve years, except such as are weak in body or mind, or can read and write, or are attending private schools, or are excused for cause by the district trustees."¹

Practically, this provision is a prohibition of compulsory education. On its face it seems to allow the General Assembly to compel children to attend until they learn to read and write—an extremely low standard; but even this may be ignored in any locality where the local trustees are adverse to the principle, by excusing children on a fictitious ground. For example, all negro children may be excused on the ground that their parents are unable to support them.

The General Assembly in 1908 passed a local option law applying to counties, cities, and towns. This law permits the localities to compel attendance for twelve weeks in any one year. In 1910 the county of Allegheny, which has a very small negro population, voted in favor of compulsory education. Rockingham County, including Harrisonburg, followed, as did the city of Lynchburg with a large negro population. Some counties claim that they are too poor to educate those who voluntarily attend. In northern and western Virginia this economic argument certainly cannot be advanced. The resources are excellent and the negro population is small. In the whole State about 35 per cent. of enrolled pupils are absent from school. This does not reduce expense; therefore it represents a direct loss of approximately 35 per cent. of \$4,000,000 annually spent on public schools, or \$1,200,000. Enforced compulsory education would prevent a large part of this loss. Of course the injury done the pupils as a result of irregular attendance is far more important than the money loss.

A great stimulus to education would result from distribut-

¹ Constitution, 1902, Art. IX, Sec. 138.

ing state funds according to actual attendance instead of according to school population between the ages of seven and twenty years. This change, however, would require a constitutional amendment.¹ Children under fourteen years of age are not allowed to work in factories or stores. Certainly having them in school is preferable to having them idle as well as ignorant.

Text-Books.—Free text-books have never been furnished by the State, but the local school boards have always furnished books to needy children.² The interest has centered around the selection of text-books. Though the constitution of 1869 said that the state board "shall provide for the uniformity of text books," this was construed to mean uniform within each school; and accordingly the state board issued a double list from which local boards were allowed to select. In 1874 a triple list was issued; in 1878 a multiple list, from which the county and city boards could select; and in 1882 each division superintendent was directed to summon from three to five teachers who, with himself, should recommend to the county or city board suitable books from the state multiple list. In 1888 a single list was prescribed by the state board under the influence of Superintendent Massey; but the localities were not required to adopt the single list at once,—that is, as long as they retained their existing lists. In 1890 a return was made to the multiple list.

In 1904 the General Assembly, by a joint resolution, advised the state board of education to adopt a single list; but this recommendation was not followed, Governor Montague alone favoring that plan. The state board of education, instead of adopting a single list, directed the county and city school boards to appoint three teachers and three members of their respective boards; these persons, with the division superintendent, recommended books for

¹ See discussion in section on School Finances, pp. 54-55.

² In 1908-09, 3,354 white children and 1,457 colored children were supplied.

their counties or cities to the state board, which reserved the right to accept or reject such lists.

These books were to be furnished by the publishers at a uniform price agreed upon by the state board. Each high school was permitted to select from a multiple list. As this list was to stand for four years, a campaign was at once begun by the book publishers. Mr. Eggleston, the present superintendent of public instruction, says that the publishers put the cost of this campaign at \$200,000. Local attorneys were employed by the respective concerns. Every indirect, and in many cases direct, form of bribery is said to have been used. Ex-Governor Montague deplored the corrupting effect of such a campaign.

In 1905, when Mr. Eggleston was campaigning for the state superintendency, he said that the Virginia School Register for public school teachers could be published for 18 cents, and that the teachers of the State were being charged 75 cents for it. The state board of education called a meeting and asked Mr. Eggleston to substantiate his statement. He did so by proving that the second clerk in the department of public instruction and a principal of a Richmond school were receiving 50 cents royalty on each copy, the printer retaining 25 cents for printing, packing, and postage. No one was entitled to a royalty, as it was the duty of the superintendent of public instruction to prepare the register. The superintendent, a Civil War veteran, was innocent, but was careless. The second clerk, at this time a candidate for state superintendent of public instruction, was summarily removed from office; and the election of Mr. Eggleston was practically assured.

In 1906 a legislative committee, of which Speaker R. E. Byrd of the House was chairman, showed that Virginia was paying for her books more than any other State in the Union except Montana and Utah, and that by a single list the State could save 25 per cent. or \$50,000 annually. In 1908 a single list was adopted for primary and grammar grades to be in effect until 1912 and thereafter for periods

of four years. For high schools a single list was adopted in 1910 to be in effect until 1914. In a few cases different high school books have been adopted for cities and counties. The selling price is stamped upon all books, and the publishing house pays the local merchant a small commission for handling them. Until the division superintendents and county teachers become generally better trained, the selection of books by them will not be preferable to selections made by the state board, composed of six educators of the highest order, besides the two highest state officials. Then why not save the 25 per cent. or \$50,000 annually?

Although unnecessary changes of books have been made from time to time, we can find no suspicion of actual corrupt conduct on the part of any members of the state boards, except against one superintendent of public instruction, and this charge was never proved. Of course indirect influences have been exerted, and some officials have been made instruments. Some inferior books have been selected because they were written or printed within the State. Members of the state board have received unsought political aid from agents or attorneys of book companies, for these local representatives usually pick their man during the campaign. Occasionally the attorney for the company is a state senator or United States congressman with much "push and pull." Under the multiple system where the selection is made by local and less experienced boards, the above influences press with more weight. Birthday presents and "hard cash" of the corporations possessing the most capital, but not necessarily the best books, can here be most effectively and corruptly used.

Libraries.—The Virginia State Library was opened in 1829 in the Capitol at Richmond, but in the year 1895 it was moved to the Library Building. Until the Constitutional Convention of 1902 the secretary of the Commonwealth was ex-officio librarian, with, however, an assistant known as state librarian; and the control of the library was vested in a joint committee of the General Assembly. From 1829

until 1904 the interest in the library did not increase, if interest can be measured by the support given by the General Assemblies, for the appropriations continued to average approximately \$5,000 per annum.¹ According to a statement furnished the United States Bureau of Education for its 1900 report, there were 96,000 volumes in the library. According to the 1904 report of the state librarian there were only 50,000 volumes, including pamphlets. The truth is, nobody knew how many books there were in the library previous to 1904. There was no card catalogue.

The Constitutional Convention of 1902 provided for the reorganization of the library. Now the state board of education appoints a board of five directors, who serve without compensation other than for actual expenses. The members of this board are elected, one annually, for a term of five years. The first board, selected in 1903, appointed in the same year the first librarian other than the secretary of the Commonwealth. His work was begun with much enthusiasm and with the hearty cooperation of the library board. A card catalogue was begun; interlibrary loans were inaugurated; and a system of traveling libraries was worked out. In 1907, after a legislative investigation of certain charges against him, he resigned.

His successor, the present incumbent, is administering the affairs of the institution well. Eighty-five thousand volumes, including pamphlets, are being carefully analyzed and catalogued according to the Congressional Library system. The archives are likewise being catalogued and printed as funds permit. Legislative reference lists are prepared for legislators and other state officials upon request, and often in advance of the sessions of the General Assembly. References are cheerfully furnished to debating societies. Ten thousand volumes, divided into two hundred and six libraries, are kept in constant circulation among schools and literary clubs. These libraries are carried gratis by the transportation companies of the State. The library is open

¹ Report of State Librarian, 1904, p. 11.

to the public, and books are lent out upon a permit from any state official, or upon a deposit of two dollars. Students doing research work are given all possible help and every reasonable privilege.

There is a Voluntary Library Association of Virginia which is advocating state aid for the much needed extension work. This work might be carried on through a special commission, but why not utilize the State Library, which is already well organized, and form a system of libraries instead of independent chaotic groups?

The State Law Library until 1902 was under the control of the State Library; but since that time it has been under the control of the supreme court of appeals. Another independent library arrangement has resulted from an act passed by the General Assembly of 1908, by which the State, through the state board of education, offers \$10 toward a library for any public school whose patrons will raise \$15. To this \$25 the district school board is obliged to add \$15 and a book-case. The \$40 worth of books are selected from a list prescribed by the state board of education.

Politics and the Schools.—When the public school system was established, practically all white Virginians were Democrats. In 1881 the coalition of Readjuster Democrats and Republicans carried the State, and the victors took the school spoils from state superintendent down to district trustees. The boards of visitors for state schools of higher education were declared vacant by the General Assembly, and Readjusters were appointed to fill their places.¹ The changes on these boards did not, however, to any considerable extent affect the faculties, though they did remove a number of administrative officers.

Since this one term of office, Democrats have controlled the State, and the administration of schools has been strictly by Democrats. Today the eight members of the state board of education, including the state superintendent of public instruction, the two supervisors, and the hundred and four

¹ Acts, 1881-82, c. 201; 1882, c. 18; 1882, c. 46.

division superintendents are all Democrats,¹ with one or two possible exceptions among the division superintendents. Of the one hundred visitors of the higher or special state schools ninety-five are Democrats, and three of the five Republicans are colored members of the board for Hampton Normal and Industrial Institute, a non-state school to which the State transfers one third of the Federal appropriation for the teaching of agricultural and mechanical arts.

The district trustees are elected by the county electoral boards, composed of the division superintendent, the commonwealth-attorney, and a non-office-holder appointed by the circuit judge. At least a majority of the members of this board are practically certain to be Democratic, and in some cases their trust is abused by the appointment as trustees of insignificant henchmen who are flattered by the office. This practice, however, is not general, and there are a great many Republican trustees. As the personnel of the division superintendents improves, the greater will be their influence in selecting competent trustees.

In certificating teachers the state examiners have never been accused of partiality. After receiving a certificate a position is secured through the local trustees, who are seldom influenced in their selection of teachers by party politics, although, until prohibited by an act of the General Assembly of 1906,² the employment of relatives was a common practice. In 1910, as a further sanction to this law, it was provided that if a board of trustees selects a teacher who is without a proper certificate, or one who is a brother, sister, wife, son, or daughter of any member of the board, the member is responsible for the salary.³

Finances.—The constitution of 1869 provided that the interest on the Literary Fund, a capitation tax of \$1, and a general property tax of not less than 1 nor more than 5

¹ The appointments of division superintendents by the state board of education must be confirmed by a Democratic senate, for which reason the state board hesitate to appoint a Republican.

² Acts, 1906, c. 293.

³ Acts, 1910, c. 338.

mills on the dollar should be apportioned among the public free school districts according to the number of children between the ages of five and twenty-one. Either the county or the school district was permitted to supplement this state allotment by a local tax not to exceed 5 mills. The next year the General Assembly enacted the constitutional requirement placing the minimum state school rate at one mill. This has remained the rate, but since 1882 the General Assembly has added an annual lump appropriation from the general state funds. At first this lump appropriation was in consideration of money diverted from the school funds; but when this was replaced, the appropriations continued, and have recently increased much in amount.

In 1871 a vote was taken in every county of the State, except Warwick County, to determine whether additional sums for paying teachers should be raised by taxation. Funds were voted in seventy-three counties and not voted in twenty-five; cities did not vote. But in no county did the local funds exceed the expected state funds.¹ In fact, Dr. Ruffner advised that the local rate be limited to one mill, for fear that a higher rate might create too much opposition on the part of the property owners.²

Not only was one mill, the minimum allowed by the constitution, assessed by the State, but a part of this was for a decade diverted from its proper channels. For several years the delinquent school taxes, when finally paid, were diverted. In 1872-1873 this one mill tax was paying to the schools \$250,000 less than in 1870-1871. When the auditor's attention was called to this misapplication of funds, his reply was that interest on the public debt caused all departments to suffer, and that the state officers, criminal charges, and support to the asylums and the penitentiary must be paid, and therefore the schools must suffer most. In 1871 the governor vetoed a bill compelling the auditor to pay to schools the income from the one mill tax, on the ground that

¹ Report of the Superintendent of Public Instruction, 1871, p. 13.

² Report of the Commissioner of Education, 1880, p. 326.

paying debt was more sacred than educating children, though both were proper. On July 31, 1878, indebtedness to teachers was \$244,871.¹ That fall very few rural schools opened, the governor being unable to borrow \$200,000 to relieve the situation. By the end of this session a total of \$1,544,765 had been diverted from the public school fund,² In 1879 the Henkel bill prevented any future diversion of the school fund, and the amount due the fund was gradually restored.

The teachers receiving miserably low salaries were often compelled to sell their warrants at a discount. This had become so common that when the delay was no longer necessary, some treasurers would delay paying that they might profit by buying warrants at a discount. In 1887 a statute was passed imposing a fine or jail sentence upon any county officer who purchased county or corporation warrants or school claims;³ and in 1894 an act provided that any treasurer failing to pay a warrant when he had funds might be deprived of handling the same by the local school boards.⁴ Not until the past decade have teachers all over the State been promptly paid; and in fact in 1910 six counties were in arrears in the pay of teachers to the extent of from \$500 to \$3,000. This present shortage is due to building new school-houses without raising the tax rate sufficiently for the much needed improvement.

The available principal of the Literary Fund has increased from \$1,596,069 in 1871 to \$2,308,300 in 1910.⁵ The one dollar of the capitation tax has remained for the state school fund, and the collection of the same is made surer by a provision of the constitution of 1902 which limits the right of franchise to such as have paid their capitation taxes for the three preceding years.⁶ The General Assembly of 1884 appropriated annually the sum of \$10,000 from this fund

¹ Governor's Message, Senate Journal.

² Senate Journal, 1879-80, Doc. No. 12.

³ Acts, 1887-88, c. 13.

⁴ Acts, 1893-94, c. 639.

⁵ Report of Second Auditor.

⁶ Constitution of 1902, Art. 2, Sec. 18, 20.

for the Farmville State Normal. The second auditor, through whom this fund had to be drawn, refused to pay, claiming it to be unconstitutional to expend the Literary Fund for schools other than "public free schools." The Virginia court of appeals sustained the second auditor on the ground that "public free schools" applied only to elementary or graded schools.¹ The constitution of 1902 limited the use of the interest on the Literary Fund, the capitation tax, and the one mill property tax to "primary and grammar grades." The state conditional aid to high schools is in addition to the above.

Since the first election of 1871 the necessary amount of county and district funds has been recommended to the county board of supervisors by the division superintendent, representing the county board of trustees. If the supervisors refuse to levy a tax at the rate recommended, the county board of school trustees may demand that the rate be submitted to the people of the county or of any district. By an act of 1908² the General Assembly has allowed county school rates to vary from 1 to 4 mills and district rates from 1 to 4 mills, provided the total of county and district rates does not exceed 5 mills. Another opportunity to supplement the school tax is given the sub-district, which may, by the majority of freeholders, have the supervisors add to their tax rates, provided the total county, district, and sub-district rates do not exceed 5 mills. In cities and towns which form separate school districts the councils may determine the rate, provided it does not exceed 5 mills; or the council may make an appropriation in lieu of such a levy. When the council does this, the amount of the appropriation does not seem to be limited; at any rate some towns have appropriated for public schools more than a 5 mill levy would have yielded.

In 1906 the county board was given power to apportion county funds among districts according to its best judgment;

¹ *State Female Normal School v. The Auditors*, 79 Virginia Reports, p. 233.

² Acts, 1908, c. 210.

but no district which runs any school therein less than four months may receive an appropriation.¹ This was intended to allow discrimination against negroes, but counties with compulsory education may avail themselves of this provision to distribute county funds according to actual attendance. In other words, those counties that wish more stringent provisions for compulsory education than those offered by the state laws can by means of this provision make the trustees of the respective districts bestir themselves. The county board may compel district boards to pay expenses of trustees in attending county board meetings, but the sum may not exceed \$10 for any one district.

In 1908 an act was passed to pension deserving public school teachers² who had taught for twenty-five years, or twenty years if mental or physical infirmity or age had rendered one inefficient for service. In 1910 this was amended;³ and now pensions are given to men who have taught for thirty years and have reached the age of fifty-eight, and to women who have taught for thirty years and have reached the age of fifty. If the pension is sought because of mental or physical disability, the applicant may have taught only twenty years, but in this event the application must be approved both by the state board of education and by the state board of health. The amount of the pension is one half of the salary received at the time of retirement, provided no teacher receive more than \$400 annual pension; principals, however, may receive \$500. By the 1910 amendment the pension is based on the average salary received during the five years just preceding retirement.

The funds for pensions are obtained by deducting one per cent. from the current salary of the teachers plus an annual appropriation from the State of \$5,000 and the income from a small permanent endowment fund.⁴ This permanent endowment fund is accumulated by deducting "from the first

¹ Acts, 1906, c. 248.

² Acts, 1908, c. 313.

³ Acts, 1910, c. 97.

⁴ In June, 1911, the permanent fund was \$49,266.

year's pension an amount equal to thirty per centum of the average annual salary earned by such person [the pensioner] during the last five years he was a teacher in this State less the amounts already contributed to the pension fund by such person retired." When the local school board enters into a contract with a teacher, he must agree to the deduction of the one per cent. of his salary; and this is deducted every month. Since 1910 the state board, to facilitate collection, has deducted from the state funds distributed to each county one per cent. of the amount paid the teachers of that county the previous year; if salaries in a county are increased, one per cent. of this increase is deducted the following year. The pensions are paid quarterly by the second auditor. If at any time the funds should prove insufficient, the amount on hand must be distributed pro rata.

Since 1908 296 persons have been pensioned, of whom 11 have died and 14 have resumed teaching. In 1910 the receipts and expenditures of the fund about balanced. It is estimated that the list of 271 pensioners (239 whites, 32 colored) will increase to about 400 in five years, and there remain. It is also estimated that the one per cent. of the teachers' salaries will amount to \$40,000. The State has practically committed itself to the appropriation of \$5,000 per annum, making the receipts \$45,000. It is estimated that \$60,000 will be required to pay the pensions. Therefore unless the State increases its appropriation or some change is made, the pensioner will in the future receive only about 75 per cent. of his nominal pension as provided by the pro rata clause.¹

The state board asked the General Assembly for this pension measure. They knew that it would be unpopular among the large class whose intentions are to teach only temporarily, and, indeed, the average length of service is only about six years; but they knew that the State could not afford a straight pension. It has enabled the local trustees to rid themselves of inefficient veteran teachers in

¹ Virginia Journal of Education, June, 1911, p. 593.

an honorable manner. The one per cent. deducted from the salary is not enough to deter makeshift teachers, many of whom do good service; but the prospect of a pension will keep in the State professional teachers who are offered somewhat better salaries elsewhere.

By an act of the General Assembly, passed in 1906 and amended in 1908,¹ an excellent use has been made of part of the principal of the Literary Fund. As a result of this act this fund, which had been invested in state bonds bearing 3 per cent. interest, is being converted into cash by the state board of education to the extent of \$100,000 per annum; and this fund is then lent to district school boards for new school-houses at the rate of 4 per cent. for sums of less than \$3,000, and 5 per cent. on the amount in excess of \$3,000. The maximum amount lent on one building is \$10,000, and only 50 per cent. of the total cost may be loaned. The Literary Fund receives fifteen notes from the district trustees, which must be paid annually with interest. A lien is taken on the property, and the building must be insured by the trustees. The plans for the building must be approved by the state board, and the money may be borrowed without a vote on the part of the patrons, which would be required in case of a bond issue. The additional 50 per cent. can usually be paid either from current revenue or by a current loan without a bond issue. This power placed in the hands of the trustees has resulted in wonderful improvement in the way of much needed buildings.² Most districts had formerly paid 6 per cent. interest; this was true especially in rural districts, which now pay only 4 per cent. as they usually borrow less than \$3,000. At the same time the Literary Fund has a safe investment. This loan plan was suggested by one of the state examiners.

In 1906 there were only 10 four-year public free high schools in the State. In the 44 so-called high schools \$102,480 was spent for support, \$45,000 for buildings. The

¹ Acts, 1906, c. 252; 1908, c. 83.

² See table on page 57.

General Assembly of that year responded to a request of the department of education by appropriating a subsidy of \$50,000 to encourage the establishment of high schools. This was apportioned among the school districts of the State in sums not exceeding \$400, provided the districts raised an amount not less than that contributed by the State. This money was distributed according to requirements specified by the state board. The chief requirements of the board were a high school building and a prescribed local fund for teachers' salaries.

In 1908 the state subsidy was increased to \$100,000 plus \$15,000 for normal training departments to be located in about 20 selected high schools and \$20,000 for agricultural and manual training departments in 10 high schools.¹ As a result of this conditional state aid the local school funds for support of high schools have increased from \$102,480 in 1906 to \$320,403 in 1910; and the sum spent on improvements has increased from \$45,000 in 1906 to \$502,000 in 1910. Encouraged by this showing, the General Assembly in 1910 appropriated \$25,000 for rural consolidated school buildings, to be distributed conditionally at the discretion of the state board.

A great stimulus to better attendance or compulsory attendance would result from distributing state school funds according to actual attendance instead of according to school population. When the present method of distributing state funds according to population of school age originated in 1870, the idea was thereby simply to compel the localities to be taxed. For a large portion of school taxes to come through state channels is peculiar to the South, and was necessary until local interest could be aroused in a public school system. Since 1870 taxable values have been concentrated in cities and progressive counties; hence the present distribution in many sections represents charity on the part of the more progressive communities. That the

¹ The last item was increased in 1910 to \$30,000; and for 1911 the additional sum of \$25,000 for permanent improvements was added.

wealthy should be taxed according to ability to pay is proper; but that the struggling property owner who lives in a wealthy community should be taxed for a wealthy property owner in a poor community is improper. Some counties have also taken unfair advantage of this method of collecting and redistributing.¹ So the State can to-day justify its method only upon the basis of charity; and charity should not be indiscriminate, but to those who help themselves. "In some cases," said Governor Swanson in his message of 1908, "the increased state aid to primary schools resulted in a decreased local rate equal to that given by the State. The State should not permit state generosity to be responded to by local parsimony." Why not distribute all state school funds conditionally? First, no school district should receive any state aid until that district has raised by local taxation a prescribed amount for every child of school age within the district. This amount should be such as would not oppress the less wealthy districts. Second, the distribution should be made on the basis of actual attendance. This basis would encourage both regular voluntary, or "compulsory," attendance and the lengthening of the school term. But a distribution on the basis of attendance should be in some inverse proportion to the density of population, as it is much easier for urban districts to have a large attendance than for rural districts.

An incentive fund played an important part in the establishment of graded schools in Virginia. Reference is here made to the Peabody Fund. In 1867 George Peabody, then of London, gave to Southern education \$3,500,000 in stocks and bonds. Of this sum \$1,500,000 of Mississippi and Florida state bonds were afterwards repudiated, leaving an available fund of \$2,000,000. For the distribution of the interest of this fund the board, composed largely of Northern men, sent Dr. Sears. He made Staunton, Virginia, his headquarters, and immediately after arriving addressed the

¹ This condition results from the fact that cities are obliged to assess property at nearly its full value to hold down the nominal tax rate; and State taxes are assessed on this same valuation.

Constitutional Convention. The convention ordered ten thousand copies of this address printed. Dr. Sears was much pleased with the appreciation with which his address met, and for the following ten years Virginia received the lion's share of the fund, \$214,000. This was distributed to graded free schools with an enrollment of one hundred, on condition that the district pay at least twice the amount given from the Peabody Fund. Often much more than double the amount was required.

From 1877 to the present time Virginia has received about \$60,000 in two-hundred dollar scholarships to the Peabody Normal School at Nashville, Tennessee, which institution was endowed in 1910 with \$1,000,000 of the fund. Since 1880 Virginia has received annually from the fund about \$5,000 for the encouragement of normal courses at the Farmville and Hampton Schools and for summer normal schools; hence, in all, Virginia has received more than \$400,000 from this fund. But this fund of \$400,000 has been worth ten times that amount because it was used as an incentive fund. To-day an educational commission which is preparing an elaborate report on the better systematization of education in Virginia is also partly sustained by aid from this fund. The boys' farm demonstration movement is likewise receiving aid from it; and the supervisor of rural schools and the supervisor of colored schools are paid from it. It should be observed that this fund has always been used as an incentive. First, it was used as an incentive to establish schools; next, to prepare teachers for these schools; now, to improve and extend the operation of the schools.

In the following table the most encouraging feature is the increase in local funds during the present decade. In the northeastern States of the Union, where public schools were local before they were state institutions, practically the whole school fund is raised by local taxes. In the Northwest the public school funds were gifts of public lands; but to-day this is supplemented by local taxes. The systems were forced upon the South as the result of the Civil War,

and for this reason they have been working out from the States. The best symptom of real interest is the increase of local rates.

GROWTH OF EXPENDITURES SINCE 1871.

Year.	State funds.	County and district funds.	Other funds (local). ¹	Teachers' monthly salary.		Value of school property owned by districts.
				Males.	Females.	
1871	\$ 362,000	\$ 330,332	—	\$32.36	\$26.33	\$ 189,680
1875	488,490	473,977	—	33.52	28.71	757,181
1880	596,629	490,039	—	29.20	24.65	1,177,544
1885	844,475	606,421	—	31.00	26.88	1,819,256
1890	851,467	705,429	\$31,245	31.69	26.61	2,235,685
1895	974,351	805,015	44,910	32.82	26.95	2,982,828
1900	1,015,538	926,993	70,203	32.47	26.18	3,536,293
1905	1,128,262	1,214,973	88,866	36.86	28.11	4,297,625
1910	1,584,933	2,767,302	465,269	47.31	35.83	8,555,343

Schools for the Colored.—The following section of the constitution of 1869 was a guarantee of education for the negro: "The general assembly shall provide by law, at its first session under this constitution, a uniform system of public free schools, and for its gradual *equal* (italics mine), and full introduction into all the counties of the State by the year eighteen hundred and seventy-six, or as much earlier as practicable."²

On January 26, 1870, an act of Congress was approved which admitted the State of Virginia to representation in the Congress of the United States on certain conditions. The following condition among others was complied with: "The Constitution of Virginia shall never be so amended or changed as to deprive any citizen of the United States, of the school rights and privileges secured by the constitution of said state."³ The educational article of the constitution of Virginia of 1869 contained one other section which was meant primarily for the protection of the negro, namely, that "Each city and county shall be held accountable for the

¹ Gifts and supplemental tuition paid by patrons for a prolonged term or for higher courses.

² Art. 8, Sec. 3.

³ U. S. Statutes at Large, XVI, 62, 63.

destruction of school property that may take place within its limits by incendiaries or open violence.”¹ This last mentioned fear was probably unfounded. At any rate no buildings are reported to have been burnt by incendiaries.

In the Constitutional Convention the twenty-four negro members had insisted upon the coeducation of the races; but, whatever the conviction of the “carpet-baggers” might have been, they clearly foresaw that the mixture of the races would make inoperative the whole system.² The right to compel colored children to attend separate schools was soon judicially upheld, and in 1900 it was further decided that district school boards might determine, without interference by the Federal court, to which race pupils belonged, provided the parents of the pupils were given an appeal to some superior school officer, such as a division superintendent.³

Dr. Ruffner, the first superintendent of public instruction, believed in the education of the negro, and began his administration by impartially enrolling white and colored. In 1882 he was superseded by a Readjuster; and, as the Readjuster victory was due to the colored vote, the negro received even better treatment than under Superintendent Ruffner. The Readjuster party (1879–1883) made the improvement of public schools, especially those for the colored, a campaign issue; and for this reason the so-called “Bourbons” (conservative Democrats), who had never been strongly in favor of a public school system, became loud in their praise of public schools. The Democratic platform, drafted in 1883 at the state convention in Lynchburg, advocated colored teachers and trustees for colored schools; and in 1885 free text-books for all children were promised by the Democratic party. When the General Assembly convened, however, the promise was found to be “impracticable at that time except as to colored teachers.” By 1886 the Democrats were back in power; and until the last half

¹ Art. 8, Sec. II.

² Debates.

³ 98 Virginia Reports, 499; 36 S. E. 529.

decade the educational conditions of the colored were not much improved. Superintendent J. D. Eggleston and the last three governors, however, have taken a more liberal-minded view, and the table below will show that from the present educational campaign the negroes, as well as the whites, have profited. The law of 1906 which allows the county school boards to apportion county funds among the districts according to the best judgment of the board was prompted by anti-negro sentiment; but too much stress must not be laid on this point, as this phase was not emphasized when the measure was debated.

In 1910 the average salary per month for teachers was as follows: white male, \$52.15; white female, \$37.54; colored male, \$31.21; colored female, \$27.82. A still better comparison is the following statement: the annual cost of teaching each white child in actual attendance was \$12.84; the cost for each colored child was \$5.60.

Though it is impossible to show exactly what portion of public school expenses are borne by the colored, the following table will show approximately what portion they contribute and how much is spent upon them:

Sources of State Revenue for 1909.	White.	Paid by: Colored.
Realty tax	\$1,327,268	\$ 60,397 ¹
Personalty tax	518,732	18,701
Capitation tax	326 591	75,980
Income tax	109,940	24
Other taxes, licenses, etc.....	3,716,857	37,168 ²
Total state revenue	\$5,999,388	\$192,270
Percentage of state revenue	97	3

¹ This item and the three succeeding ones are obtained by subtracting delinquent taxes for 1909, as reported by the state auditor (Annual Report, 1910), from the assessment of 1909 (Annual Report, 1909), where the items are reported separately for the two races. The only considerable delinquent taxes that will be paid later are delinquent realty taxes amounting to \$42,993 for whites and \$7,855 for colored.

² These items are not reported separately for the races, it being assumed that the whites pay practically all. The observations of those by whom it can be best approximated and my own observations place the percentage, paid by the colored, of license taxes, corporation franchise taxes, charter fees, insurance premium taxes, inheritance taxes, and so on, which make up these amounts, at one per cent. However, since some of these items are partly indirect, the negro indirectly pays more than 1 per cent. thereof.

3 per cent. of \$1,584,933 (total state expenditures for public schools)\$ 47,548
 4 per cent of \$3,232,571 (total local expenditures for public schools) 129,308¹
 Amount contributed to public free schools by the colored..\$176,858
 Amount spent on public free schools for the colored, about 500,000²

GROWTH OF COLORED SCHOOLS.

Year.	Enumera- tion. Ages from 5 to 21.	Enrollment.	Daily attend- ance.	Percent- age of at- tendance on enu- meration.	Percent- age of at- tendance on enroll- ment.	Months taught.	Teach- ers em- ployed.	Percent- age of whom were colored.
1871	164,019	38,554	23,452	14.2	60.8		706	70
1875	202,640	54,941	29,871	14.7	54.3		1,064	50
1880	240,980	68,600	38,764	16.0	56.3		1,256	62
1885	265,249	109,108	60,845	22.9	55.7		1,917	86
1890	275,388	122,059	63,317	22.9	51.8		2,153	91
1895	268,503	120,453	64,700	24.0	53.7		2,243	92
1900	265,258	119,898	66,549	25.0	55.5		2,335	93
1905	214,152 ³	110,059	62,621	29.1	56.8		2,233	97
1910	217,525 ³	119,657	73,155	33.6	61.1	5.99 ⁴	2,393	99

II. HIGHER EDUCATION.

William and Mary College.—On July 31, 1619, the first General Assembly of Virginia petitioned the London Company to send, "When they shall think it most convenient, workmen of all sorts for the erection of the university and college." A hundred persons, including farmers to till the ground, were sent. The Indian massacre of 1622 caused a check to and a temporary cessation of the ambitious plans. In the year 1660 the General Assembly again considered the

¹ Here is attributed to the colored the payment of 4 per cent. of local school taxes because the latter are derived principally from a property tax which is based upon the same valuation as the state property tax; and of this the colored pay 4 per cent.

² The only school expenditures kept separate are the salaries of teachers. For colored teachers \$409,711 was spent during the session of 1909-1910. Of the total expenditures for both races, for all purposes, the cost of teachers was 79 per cent. Therefore, as \$409,711 is 79 per cent. of \$518,621, we might say that this figure represents the amount spent on the colored schools. But because the accommodations for the colored are much inferior to those for the whites, it is only safe to say that the negro receives for public free schools less than \$500,000, and pays in taxes, directly, about \$176,856.

³ Between 7 and 20 years.

⁴ White schools ran 7.37 months.

establishment of a college. Sir William Berkeley and others subscribed to the fund; but the colony was in a restive state, and the plan was not to materialize for thirty years.

In 1691 Rev. James Blair, of the Church of England, was elected agent for the college by the General Assembly of Virginia. Two years later he secured from England a charter for "William and Mary College." The king and queen, from their private purse, gave £2,000 toward the new enterprise. The English government gave 20,000 acres of land, one penny on every pound of tobacco exported from Maryland and Virginia, and all fees or profits arising from the office of surveyor-general. The same year an export duty on skins and furs was levied for the support of the college. In 1718 £1,000 were appropriated by the General Assembly for the education of "ingenuous scholars, natives of this colony." In 1726 the General Assembly appropriated £200 per annum for twenty-one years out of a tax of one penny a gallon on liquors. The proceeds of a tax on peddlers was likewise set aside for the purpose in 1759.

In 1779 Thomas Jefferson and George Wythe, who had been selected to revise the colonial laws into a code suitable to the needs of a new State, recommended that the office of surveyor-general remain a part of the college, and that the fees arising from the office be retained by the college as state aid. This recommendation was enacted into law by the General Assembly. The idea was to make it ultimately a state university; but when the University of Virginia was established at Charlottesville in 1818 this act was repealed, and the separation of the University and the State was complete.

At the close of the Revolutionary War the twenty thousand acres of land owned in different parts of the State were gradually disposed of, and the proceeds, amounting to about \$150,000, became endowment. During the Civil War most of this endowment was lost by investment in Confederate bonds. At this time also the main building was burned by Federal soldiers, and from 1865 to 1881 the

college was maintained only by a financial struggle; from 1881 to 1888 it was closed.¹

Relations of the State with the college were renewed in 1888. From that time until 1906 the State granted a sum annually to its normal department for men. In the latter year the property, including a small endowment, was transferred to the State; and the college is now administered by a board of ten annual visitors who are appointed, five every two years for a period of four years, by the governor of the State. As many state students as there are representatives in the House of Delegates may be elected by the board of visitors upon the recommendation of the division superintendent of education from the respective districts of the delegates. These students are exempted from tuition fees, and receive board, light, fuel, and laundry for \$12 a month. As a matter of practice, any student living within the State may avail himself of these privileges by applying to the president of the college. State students must sign a pledge to teach in the public schools of the State for a period of two years. The very small percentage of state students who fail to fulfill this pledge are not legally proceeded against, it being thought inexpedient. About 50 per cent. of the students are pursuing college courses; the other half pursue courses of high school grade. About half of those enrolled are pursuing the teachers' course which covers thoroughly the high school grades and the equivalent of freshman and sophomore college courses. The degrees of Bachelor of Arts and Master of Arts are also given. The state appropriation for 1911 was \$40,000 for support and \$15,000 for improvements.

University of Virginia.—In the year 1818, through the influence of Thomas Jefferson, the General Assembly appropriated from the Literary Fund the sum of \$15,000 annually for the establishment of the University at Charlottesville, a

¹ For the facts in the above four paragraphs the writer is indebted to the recent interesting book on Williamsburg by Lyon G. Tyler, and also to the interesting Contributions to the Study of History by H. B. Adams.

healthful, centrally located town near the home of this great patron of education.¹ From 1818 to 1825 all of this sum was used for the erection of buildings. In addition to this, three \$60,000 loans were obtained from the Literary Fund by acts of the General Assembly. In 1824 this debt of \$180,000 was cancelled.² In fact, this was a means by which the promoters built more extensively than the General Assembly would have agreed to when the loans were made. An additional sum was raised by private subscriptions, Jefferson, Madison, and Monroe being among the contributors.

In 1825 the University opened with a plant which had cost about \$400,000 without encumbrances, and with a \$15,000 grant from the Literary Fund.³ After 1869 this sum was paid from the common state budget, as the use of the income of the Literary Fund had been restricted to the common schools by the constitution of that year.⁴ In 1876 the appropriation was increased to \$30,000; in 1884 it was increased to \$40,000 on condition that students from the State be charged no tuition; and in 1906 it was raised to \$75,000 on condition that the university fee for state students be reduced from \$40 to \$10. The appropriation in 1911 was \$90,000.⁵

Until 1904 the government of the University was different from that of any other university in the world. The administration was vested in nine visitors appointed by the governor of the State, at first for one year, afterwards for four years. The visitors with a rector elected from among themselves met annually at the University, and decided such questions as are ordinarily decided by a president. Subject to this general direction of the board of visitors, the affairs of the institution were administered directly by the faculty

¹ Acts, 1817, c. 2.

² Acts, 1824, c. 7.

³ Niles' Register, March 4, 1826.

⁴ Constitution, 1869, Art. VIII, Sec. 8.

⁵ This included \$10,000 for the support of the hospital and \$10,000 for interest and a sinking fund on a \$200,000 funded building debt which pays 4 per cent. interest. This debt was contracted for new buildings after the fire in 1896. The University, however, has an endowment fund of \$1,394,025.

and its chairman, the latter being elected by the faculty for a one-year term, though he was often reelected. The chairman directly discharged the duties usually devolving upon a president, but also had secretarial duties under the general direction of the board of visitors.

Jefferson had copied this system from European schools, but since Virginia had no minister of education it worked quite differently from its models. The system broke down because the board of visitors could not perform the many duties of a twentieth century president; because the chairman of the faculty, who was also a teacher, lacked the time for his duties, even if there was to be found a teacher who also had preeminent administrative ability; also because a consistent administrative policy was impossible when it was dependent upon the views of a faculty or board whose personnel was frequently changing.

In 1903 the General Assembly authorized the board of visitors to elect a president. The following year Edwin A. Alderman, formerly president of Tulane University, was elected first president of the University, the change being brought about long after it was needed but without friction. The term of office for the president and members of the faculty is dependent upon good behavior, a vote of two thirds of the board being necessary for removal. It has been Dr. Alderman's policy to refer all matters pertaining to courses of study and kindred subjects to the faculty much as was done under the old system, and he has always abided by their decision. The leadership of a progressive president has already shown great results. The fourteen unit entrance requirement has been established and enforced; the law school has lengthened its course from two to three years; the medical school has been much improved; the enrollment has grown; the endowment has more than doubled; and the annual grant has been increased. The interest in the summer school has greatly increased, the attendance in 1911 being 1325, the greater number of whom were in the normal department.

Virginia Military Institute.—The Virginia Military Institute was founded in the year 1839. The state arsenal in Lexington had formerly been protected by a body of paid soldiers, but it was proposed that it be guarded by young men who might study at the same time. Out of this proposal grew the Virginia Military Institute, a strictly scientific military college, known as the "West Point of the South."¹ West Point discipline over students attending largely at their own expense has occasionally become a problem. The classes are closely organized according to years; and on two occasions the form of insubordination has been to break barracks on New Year's eve for a pyrotechnic display from the roof. In 1905 the insubordination was in the form of an ultimatum, stating that the class would resign unless there were a decided change, by an appointed day, in the food. In January, 1911, because certain cadet officers were considered over-zealous in their discipline, the third class (sophomore), to annoy these officers, threw loud explosives from barracks.²

In 1899 the first class (senior) was suspended, but reinstated a month later. The insubordination of 1905 resulted only in the dismissal of nine cadets. In 1907 the class was retained upon very hard conditions. In 1911 the third class (sophomore), numbering eighty-odd, was dismissed almost to a man and not reinstated. The precedents set in 1899, 1905, and 1907 were hurtful, and the support given the superintendent of the school by the board of visitors in 1911 is much to be commended. Had the class of 1899 been

¹ The minimum entrance requirements are ten units. As an example of the military and technical training received, we read that at Fort Leavenworth in 1908 four hundred aspirants for military honors took the preliminary examination for the post of second lieutenant of the U. S. Army. Only thirty-six passed. Seven of them were graduates of this school, although only eight cadets from the Virginia Military Institute took the examination (Richmond Times Dispatch, January 16, 1909).

² This organized insubordination has occurred in 1880, 1899, 1905, 1907, and 1911.

summarily dismissed it is most probable that the insubordination of later years would have been avoided.¹

The board of visitors, who are appointed by the governor, have always admitted as state cadets, with free board and tuition, at least fifty young men between sixteen and twenty-five years of age; one from each senatorial district, and eleven at large. The number of applicants is about 50 per cent. greater than the number admitted. For several years past the board has admitted all cadets from Virginia free from tuition. The saving to a "state cadet" is now \$235 per annum or \$940 for the four years. In consideration of this the state cadet, after graduation, or even after two years of residence, must teach for two years in a Virginia school; or else he must pay in lieu thereof \$400 without interest in four annual installments. It has been proposed that those who serve two years in the state militia or pursue engineering in the State should be exempted from the payment of this four hundred dollars. In 1880 a law was passed by the General Assembly of Virginia compelling the superintendent of the school to proceed legally against any state cadet not fulfilling the agreement. The words of this law were underscored throughout, which would seem to indicate that the author drafted it with an intense feeling that the State was being defrauded by some cadets. At present there are few who do not fulfill their obligations, and it is not thought advisable to proceed against them.²

At present there seems to be little justification for this expenditure on account of state cadets. In 1909, after the system had been in operation for seventy years, there were only nineteen graduates of this institution teaching or acting as principals in the public schools of the State. It would

¹ A great part of the class expelled in 1911 were exceptional in scholarship and conduct. The large majority were involved to shield the few who are insubordinate by nature. If one fails to act with his class he is to a certain extent ostracised; so it results that a large majority of exemplary cadets are ruled by a small minority of insubordinates.

² The state annuity for 1911 was \$40,000.

seem that a better plan would be to lend state cadets money for board, uniforms, and books (tuition being free to all from Virginia), without interest and without indorsement, payable one hundred dollars annually after graduation. The names of such as do not pay their annual notes should be published in the annual report of the school unless the cadet is excused by the board of visitors for good reason, such as sickness. By thus using the state cadet appropriation a permanent loan fund would accumulate which in a comparatively short time would make the school independent of other patronage. This plan would assist in discipline, and would extend the opportunity of an education to a much greater number; and an opportunity is all that any young man should ask of the State. The wisdom of this last suggestion, it is but fair to say, is questioned by the superintendent of the Institute.

Schools for the Deaf and Blind.—The Virginia School for Deaf and Blind was established at Staunton the same year as the Virginia Military Institute, 1839. This institution is strictly a school, none being retained who cannot learn. Industrial arts, typewriting, music, and other occupations are taught the blind. This institution has always been for whites only, but in 1909 the Virginia School for the Colored Deaf and Blind was established at Newport News. These schools are free to all Virginians. The grant in 1911 for the support of the former was \$50,000; for the latter, \$15,000, plus \$8,500 for equipment.

Virginia Polytechnic Institute.—In 1862 the Congress of the United States appropriated public lands, or land-script, to the several States in proportion to their representation in Congress, for the establishment of departments of agriculture and mechanical arts. The conditions of the gift were that the students take military training; that the land-script be sold and the proceeds be invested in safe stocks yielding not less than 5 per cent.; that any losses of principal be replaced by the State; that no part of the principal be in-

vested in buildings.¹ After the Civil War a further condition was imposed, requiring a just portion of the fund to be devoted to the colored. The University of Virginia showed very little interest in having this department attached to itself, and the Virginia Military Institute had not sufficient land in its immediate locality. But in the southwestern section of the State the legislators and a few progressive persons bestirred themselves, and offered the Olin Institute buildings and grounds with a \$20,000 bonus from the county for an additional building; and in 1872 the Agricultural and Mechanical College of Virginia opened at Blacksburg, an inaccessible village in a fertile section of Montgomery County.

The General Assembly ordered the state board of education to sell the land-script and to invest the proceeds in Virginia bonds issued since the adjustment of 1871. In 1877 the board of education was directed to turn over all bonds resulting from the sale of the "script" to the second auditor, who was to cancel the same and enter them as registered bonds. On this \$516,624, 6 per cent. interest, or \$30,988 per annum, has always been allowed. By acts of Congress passed in 1890 and 1907 lump appropriations were made for schools of this type, which in 1913 will aggregate \$75,000 per annum. But of this \$105,988 annuity one third must go to Hampton Normal and Industrial Institute for the colored race, a non-state school which gives excellent normal and agricultural courses.²

By acts of Congress in 1887 and 1906, \$30,000 per annum has been granted each state for agricultural experimentation.³ In 1888 the General Assembly of Virginia made an experimental station a part of the Agricultural and

¹ Act of July 2, 1862, ch. 130, 12 Stat. L.

² The governor appoints visitors to this school, but the superintendent is selected by a non-state board. This school, which has done so much for the colored of the State and the South, is supported by Northern philanthropy. It has had two noble superintendents.

³ This Virginia Experimental Station is under the control of a committee of the same board of visitors that controls the school.

Mechanical College of Virginia. To this \$30,000 the state has added \$5000 for the publication and circulation of bulletins to be sent to all newspapers of the State and to all farmers who apply. In 1910 the State granted the school \$60,000 for support in addition to the above Federal funds.¹ The board of visitors is composed of the president of the board of agriculture, the superintendent of public instruction, and eight men appointed by the governor of the State from farmers, mechanics, and graduates of the school.

A number of students equal to four times the number of members of the House of Delegates, or about four hundred, apportioned in the same manner, have the privilege of attending the school without charge for tuition, or use of laboratories and public buildings. According to law, students should be appointed by the public school trustees of the delegate's district; but in practice any student residing in the State can avail himself of these privileges by applying to the president of the college. The president is making an earnest effort to raise the entrance requirements, with gradual success. The minimum requirements are now from eight to ten units, though any farmer may enter the six weeks' practical course offered each winter.

State Normal Schools.—The Virginia Normal and Industrial Institute (colored), for males and females, was established at Petersburg in 1882, while the Readjuster party was in control of the State. The school fared best while this party was in power, but has always received an annual grant, which is now \$20,000. Students are admitted on the same conditions as at the Virginia Polytechnic Institute. When it was established and during its early days colored men were on the board of visitors, but these have been replaced by a most excellent board of whites who are in full sympathy with the education of the colored. The school is quite well managed by a colored superintendent.

¹ In addition to this the State appropriated \$6750 to the school for interest and a sinking fund on a building debt of \$115,000; \$6000 for a school of mines; and \$5000 for crop experimentation.

The State Female Normal School at Farmville was opened in 1884. Until 1909 this was the only state school of higher or special training admitting white women. According to law, each county and city is entitled to free tuition and room and board at a very low figure for one student, provided each county or city have in the school, free from tuition, as many students as it has delegates in the General Assembly. Each state student must give evidence of her intention to teach for two years in the schools of the State. In practice, any young woman from Virginia can avail herself of these privileges. The entrance requirements at the Farmville Normal School have of necessity been very low. Previous to 1909, students could enter from the grades; in 1910 the policy was to admit those who had exhausted the public school facilities at their homes; in 1911 the prerequisite to entrance was one year in a high school. The requirements for graduation are a complete high school course plus two years of professional training.

A kindergarten and graded school, composed of several hundred town children, are well taught by advanced students. High school girls of Farmville also attend this school by paying a nominal tuition. It would seem to the writer that only those taking strictly normal work should be admitted for less than private school rates of tuition, as there is no reason why the State should totally support the high school of any locality. Also, it is an injustice to the boys of the community, as the arrangement has prevented the proper development of a city high school. This school is developing a very good kindergarten training department, and it would seem that the other state normal schools, for the present at least, should not attempt to develop this department, as it would be wasteful duplication.

The Harrisonburg Normal and Industrial School was opened in 1909. It is for young women, but men are admitted to the classes during one summer term. Practically any young woman from Virginia desiring to teach can enter here on the same conditions as at Farmville, except that two

years of high school preparation are required. The course consists of a four-year normal course with emphasis upon domestic science, household manual training, and gardening. A somewhat unique feature of this school is the system of four terms. The school is open eleven weeks during the summer, so that by taking short vacations it is possible to save one year in completing the full course; and teachers from short term country schools can annually take two of the four terms. The system shows progress and is working excellently.

There is no training-school directly connected with the normal school, but all seniors get experience in the Harrisonburg Graded School, which is one of the best in the State. The Harrisonburg High School also, unlike that at Farmville, was one of the very best when the State Normal School was established; therefore high school girls from the town do not attend the Normal School. As Harrisonburg has two graded schools for whites it would seem well if one could be gradually turned over to advanced normal students. Patrons are apt to think that their children are being experimented upon, but in fact children are better taught in a well-conducted training school than in any other, as the teachers are under the constant supervision and direction of pedagogical experts.

The Fredericksburg Normal and Industrial School was opened in 1911. It is similar to the Harrisonburg Normal School except that it has not the summer session and that its only entrance requirement is that an applicant shall have exhausted the public school facilities offered in his home town. The Radford Normal and Industrial Institute is expected to open in 1912, and this school will be somewhat similar to the Harrisonburg and Fredericksburg Normal Schools. It seems that until women are admitted at the University of Virginia one of the state normal schools should have a department for training high school teachers, requiring a full high school course as a prerequisite to

entrance. This would not take the place of a full college course, but would be a step in the proper direction.

In 1911 the above named female normal schools for whites received from the State a total of \$100,000 for support and \$150,000 for permanent improvements. The students are expected to pay a sufficient amount to cover the cost of maintaining the mess-hall and paying for laundry, light, and heat. For these items the Farmville and Fredericksburg Normal Schools charge \$15 a month; the school at Harrisonburg charges \$14. William and Mary College has been charging only \$12, according to the letter of the state law. But to do this the mess-hall fund had to be supplemented from the state annuity. All of the state normal schools are controlled by boards of visitors appointed by the governor of the State; and each of these boards has selected a practical, enthusiastic school man as president. Another inexpensive but efficient state normal school is needed for the colored somewhere in the vicinity of Lynchburg. There is no greater defect in the administration of schools in Virginia than that of having one third of the population taught by teachers the large majority of whom are in no sense prepared for the work.

The normal departments in twenty-four high schools have been described under the head of high schools. In addition to all the normal schools mentioned there have been recently started fifteen one-month state summer normal schools conducted throughout the State, with an attendance of more than three thousand, in addition to the thirteen hundred at the University Summer Normal School. Each of these is in charge of a conductor appointed by the state superintendent of public instruction, who also selects the places for holding the schools. These summer normal schools are supported by an appropriation from the state school fund, supplemented by additional sums from the cities and counties in which the schools are conducted.

The recent growth of normal schools in Virginia is one of the most striking improvements of the Virginia public school

system; but unless the much needed legislation which established these schools is supplemented by additional legislation which will raise the salaries of teachers, the State will find itself repeating the mistake of the past when it spent large sums on colleges and provided no public free high schools to prepare pupils for the colleges. The result was that an unduly large proportion of the college students were from other states. Unless salaries are in some manner raised, those whom the State will train will go elsewhere to teach on better salaries. They can be held in the State by a minimum salary law applying to all teachers holding collegiate or professional certificates. Two objections may be raised to this. First, some will object to applying the minimum salary law to colored teachers. The reply is that there is no greater waste of school funds than the employment of inefficient teachers even if they can be had at low salaries. A professional teacher, white or colored, is cheap at any reasonable price. Another objection is that a minimum salary for teachers holding professional certificates would cause trustees to accept teachers without professional certificates. The writer does not believe this; but if the minimum salary law should have this effect, all schools of a certain standard could be required, under penalty of forfeiting state aid, to employ teachers with collegiate or professional certificates.

Other State Aid.—The Medical College of Virginia receives an annual grant of \$5,000 from the State, though it is not a state school. To obviate the constitutional prohibition against supporting non-state schools, a board of visitors is appointed for the school. In addition to the support given the above institution and the state schools already mentioned, the State annually gives indirectly \$63,914 to three state and seventeen non-state schools.¹ In 1902 an act of the General Assembly allowed "schools and colleges" holding Virginia state bonds to continue receiving the original rate of 6 per cent. interest as they had always done, though

¹ Report of the Second Auditor, 1910.

all other bonds had been refunded at 3 per cent. in 1892. If these bonds held by schools produced only 3 per cent., the rate paid on all other state bonds, the State would pay \$63,914 less interest on the state debt; therefore the State practically appropriates this amount to these schools.¹ The constitution of 1902 prohibits the State, county, or city from appropriating to a non-public school, but makes a specific exception in favor of this indirect appropriation.²

In 1911 the State spent on these permanent state schools of higher or normal education for all purposes between \$600,000 and \$700,000. In addition to this, these schools, excluding those for the deaf and blind and the normal schools, may each draw from the state treasury annually a sum equal to 1 per cent. of its annuity; this money is used as a permanent loan fund for deserving scholars, who receive sums not exceeding \$100 each for any one session upon which they pay 4 per cent. interest.³

Discussion.—The Virginia state schools of higher education lack both coordination and subordination. Their work is not coordinate, does not properly fit together, because there is nobody to make it fit together. When there were only a few state schools, and comparatively few departments of government to be administered, the governor had some opportunity to determine school policy through the boards he appointed, if he were inclined to do so. Today this is impossible for a busy governor; and if education, which consumes nearly one half of the State's revenue,⁴ is

¹In this calculation we have taken into consideration that the Federal act giving the "land-script fund" to the states for agricultural and mechanical colleges requires the payment of at least 5 per cent. interest. That is, this \$63,914 includes \$5181 or 1 per cent. of the \$516,624 in the land-script fund, the difference between 5 per cent. which the State is obliged to pay and 6 per cent. which it does pay.

²Constitution, 1902, Art. 9, Sec. 142.

³Acts, 1908, c. 284.

⁴In 1909 46 per cent. of the state revenue was spent on education, including state money spent on buildings and improvements. This figure applies only to state revenues. Through local taxation a sum almost as large was raised for public schools (Mill Tax Report of the Virginia Education Commission, p. 7).

ever to be permanently systematized and administered according to economic principles, a commissioner of education, appointed by the governor, with a salary which will attract talent and experience, is essential. No system can perform its purpose without a single head; yet state education in Virginia has ten heads, no one of which has the promotion of state schools as its prime interest. Reference is made to the nine boards for state schools and the state board of education for primary and secondary education. As a result, three state schools offer courses in engineering, half of the state schools are retarding the development of high schools by robbing them of pupils who could as well pursue high school work at home; school supplies are purchased separately by the schools which could be had more cheaply if bought in larger quantities. Examples could be multiplied.

In regard to the engineering courses at three schools, it has been pointed out that the Virginia Military Institute is primarily to develop health and character rather than to offer the specialized course of the average college; that the Virginia Polytechnic Institute is a school for practical engineering; that the University of Virginia emphasizes theoretical graduate courses. Yet it seems that at least two of these schools could have been combined to the economic advantage of the State. It would seem that the shops at the Polytechnic Institute would be helpful at the University; and that the advanced theory at the University would be inspiring at the Polytechnic Institute. At least the existing four female normal schools for whites are needed, but unless these schools are coordinated by a commissioner of education a loss will result. Instead of delegating kindergarten work to one, manual and domestic arts to another, and a department for high school teachers to the third, each will naturally endeavor to develop all three.

The existence of five state normal schools whose entrance requirements vary from no high school work to two years of high school work results in the State's paying for high school work which should be supported by the localities; and

this will be done by the localities, at a moderate cost to the State, if the latter appropriates conditionally toward the support of high schools. In fact the University of Virginia is the only state school which requires a full high school course as a prerequisite to entrance. The Military Institute and the Polytechnic Institute are both striving for this goal; but each knows that its attendance will fall off when it raises the standard, which would make a bad showing in the eyes of the public. A strong commissioner of education could set this standard with immunity to himself. Of course non-state colleges might continue robbing high schools, but this would not be at state expense; and there are constitutional means by which this could be prevented if it were the business of any one man to have such laws enacted and enforced.

There is a considerable sentiment in favor of state provision for the collegiate and university education of women. It is a fact that a large majority of high school graduates are girls, and that the number of women teaching in our high schools is becoming larger every year. At present the State cannot afford an additional school plant; but if a normal course for men were offered at the University, William and Mary College might be turned over to women. Here both an advanced normal course and a course leading to the degree of Bachelor of Arts could be offered; but for the courses leading to the degree of Master of Arts or Doctor of Philosophy there should be no objection to admitting women at the University.

The Virginia Education Commission has recently issued an interesting tentative report¹ on a proposed mill tax for the educational "system" of the State. The report recommends that for the support of elementary schools, high schools, normal schools, and institutions of higher instruction there be set aside from the annual revenues of the State a sum equivalent to two and one third mills on the taxable

¹ This report was prepared by the secretary of the commission, Charles G. Maphis, who has given much helpful data to the writer for the preparation of this section.

property of Virginia from which the school revenue is now derived, which would be in lieu of the present school tax and all the regular annual appropriations for maintenance heretofore made for this purpose from the state treasury, except the capitation tax and the proceeds of the Literary Fund.

The report shows that sixteen States have adopted this method of support for one or more of their educational institutions, and twenty-one out of eighty-three universities and other institutions of higher education are supported in whole or in part by a mill tax. The arguments advanced for the mill tax are that it permits a fixed policy; that revenues keep a proper pace with wealth; that it provides staple support in times of financial depression; that it prevents undignified lobbying at the legislature by college presidents; that it saves time and annoyance to legislators and prevents "log-rolling" and "wire pulling"; and that it adds to the self-respect of school men. The Education Commission will make a report to the biennial session of the General Assembly of 1912, but expects to continue its work for an additional two years in its efforts to bring about greater coordination in the school system of Virginia.

CHAPTER II.

THE ELECTORATE AND ELECTIONS.

The Electorate.—Even in colonial days suffrage was more extensive in Virginia than in England, but as late as 1824 Jefferson estimated that a majority of freemen in Virginia were excluded from the franchise. From 1776 to 1850 there was a light property qualification; and from 1850 to 1869 every white male citizen of the Commonwealth twenty-one years of age, who had been a resident of the State for two years and of the county or city for twelve months, could vote. The constitution of 1869 extended the suffrage to every male citizen of the United States twenty-one years of age, thereby including negroes; and reduced the period of residence to one year in the State and three months in the county or city.

From 1877 to 1882, however, the payment of a one dollar capitation tax was made a prerequisite to voting.¹ There were two motives for this capitation tax; first, to produce revenue;² and second, to restrict the negro vote. The restriction upon both the white and the colored vote, and especially upon the latter, would have been much greater than it was had the voter been left to pay his own tax. But during this period the Republicans and Readjusters were making successful attacks upon the Democrats; and since the former were receiving more assistance from Federal office-holders and the national political fund, they could afford to pay delinquent capitation taxes of the negroes with

¹ The amendment was finally approved by Acts, 1876-77, c. 271; repealed by Acts, 1881-82, c. 78, which authorized the governor to proclaim it repealed upon a vote of the majority in the November election. From 1872 to 1877 no child could attend a public school whose father, if alive, a resident, and not a pauper, had not paid the last capitation tax assessed against him (Acts, 1871-72; 1876-77, c. 38).

² See Capitation Tax in chapter on Finances.

more ease than the Democrats could pay those of the delinquent whites; and thus, when the amendment for the repeal of this prerequisite to voting was submitted, the Democrats seemed to have made very little opposition. In some cases the county treasurer would hand over a batch of receipts for capitation taxes which had never been paid. Other treasurers with more of the mercenary spirit would furnish the receipts on condition that the politician would pay for such as he used. This tax could be paid as late as the night before the election. This prerequisite to voting was abolished in 1882, while the Readjusters and Republicans were in power.

By the end of the nineteenth century the negroes generally realized that they could not be elected to office; and in the thirty-odd counties where negroes were in the majority it was almost as well known that they could not elect the man of their choice. The election machinery was in the hands of the whites, and if the negroes actually cast the majority of ballots for one of their own race, he was "counted out" by the judges of election. But they continued to be irresponsible tools, usually in the hands of the more corrupt candidates. This was especially shown in liquor local option elections.

The fraudulent control of elections became a habit, and it was used to a considerable extent against whites as well as against negroes. The condition was most unsatisfactory, and when it was observed that other Southern States had practically eliminated the negro vote by legal means, the demand for a reformed electorate in Virginia became the most influential plea for a constitutional convention. When the Constitutional Convention of 1901-1902 met, it considered the question of suffrage, from time to time, for more than twelve months. The majority of delegates from the black belt desired to disfranchise practically all negroes, while those from the northern and western sections of the State desired to save all whites.¹ The result was a com-

¹ The Democratic state convention which had proposed that a constitutional convention would be called had made a party pledge that no white man should be disfranchised.

promise; but the franchise was much restricted by the requirements of longer residence, a capitation tax as a prerequisite, and an educational test.

However, by a special "white carry-all" permanent registration to extend through 1902 and 1903, the following male citizens of the United States, twenty-one years of age, who had resided in the State two years and in the county, city, or town for one year, were allowed to register upon the permanent roll:

"First. A person who, prior to the adoption of this Constitution, served in time of war in the army or navy of the United States, of the Confederate States, or any state of the United States or of the Confederate States; or,

Second. A son of any such person; or,

Third. A person who owns property, upon which, for the year next preceding that in which he offers to register, state taxes aggregating at least one dollar have been paid; or,

Fourth. A person able to read any section of this Constitution submitted to him by the officers of registration and to give a reasonable explanation of the same; or, if unable to read such section, able to understand and give a reasonable explanation thereof when read to him by the officers."

Since the first of January, 1904, every citizen of the United States, twenty-one years of age, two years resident in the State, and one year resident in the county, city, or town, has registered or may register, provided:

"First. That he has personally paid the proper officer all state poll taxes assessed or assessable against him, under this or the former Constitution, for the three years next preceding that in which he offers to register; or, if he come of age at such time that no poll tax shall have been assessable against him for the year preceding the year in which he offers

to register, has paid one dollar and fifty cents, in satisfaction of the first year's poll tax assessable against him; and,

Second. That unless physically unable, he makes application to register in his own handwriting, without aid, suggestion, or memorandum, in the presence of the registration officers, stating thereon his name, age, date and place of birth, residence and occupation at the time and for the two years next preceding, and whether he has previously voted, and, if so, the state, county, and precinct in which he voted last; and,

Third. That he answer on oath any and all questions effecting his qualifications as an elector, submitted to him by the officers of registration, which questions, and his answers thereto, shall be reduced to writing, certified by the said officers, and preserved as a part of their official records."¹

Every person, except veterans of the Civil War, must "personally pay² at least six months prior to the election,"³

¹ The following classes, somewhat more extensive than in previous constitutions, are excluded from suffrage: idiots, insane, paupers; persons convicted of crime and disqualified before the adoption of the constitution; persons convicted after the adoption of the new constitution, of treason, felony, bribery, petit larceny, obtaining money or property on false pretenses, embezzlement, forgery, or perjury; duelists and their assistants; Federal soldiers and marines unless citizens of the State previous to being stationed therein; inmates of a charitable institution; students in an institution of learning. That is, a student is not regarded as having either gained or lost a residence, as to the right of suffrage, by reason of his location or sojourn in such institution.

² In *Tilton v. Harmon* (109 Va., 503) "personally pay" is construed to mean that it may be paid by check, or it may be "paid with the citizen's money sent to the treasurer by a member of his family, by his clerk, or other duly authorized agent, and perhaps there are other ways by which the money could be paid to the treasurer."

³ An Act of 1908 (c. 73) has been held constitutional which provides that in a special or local option election held between January 1 and the second Tuesday in June any person may vote who has paid his capitation taxes six months before the second Tuesday in June; and between the second Tuesday in June and December 31 any person may vote who is entitled to vote in the general election on the Tuesday after the first Monday in November.

all state poll taxes assessed or assessable against him . . . during the three years next preceding that in which he offers to vote."

Registration.—The registration and election machinery has been in the hands of the courts or the General Assembly. Previous to 1884 a registrar for each precinct was appointed by the county or city judge. The three judges of election for each precinct were likewise appointed by the county judge, but the clerks of election were selected by the judges of election. Since 1884, county and city electoral boards,¹ composed of three members, have appointed registrars,² judges of election, and clerks of election.

The registrars sit twice a year to register new voters, but one may be registered at any time during the year. Five days before each sitting, and also on the day of election, the registrar must post at the place of voting a list of persons registered. Separate registration books for whites and negroes are furnished by the secretary of the Commonwealth. The county or city clerk of the court must keep for inspection a list of registered voters; and he must keep a separate list of those who registered before 1904, as these persons are entitled to certain privileges.³

Five months before each regular election the county treasurer must send to the clerk of the circuit court of the county or clerk of the corporation court of the city, a list of electors who have paid their capitation taxes⁴ not later

¹ From 1884 until 1894 these electoral boards were selected every two years, and from 1894 until 1904 every four years, by a joint resolution of the General Assembly. Since 1904 the electoral boards have been appointed, one each year for three years, by the circuit or corporation court.

² Special registrars were appointed by the Constitutional Convention of 1902 for the special registration of 1902 and 1903.

³ The permanent lists can always be found, but registrars have been careless in returning lists of those who have registered since 1903, for which reason the only way to learn the total registration of the State would be through several thousand registrars. The number of poll-taxes paid is some indication; but veterans are not required to pay a poll-tax as a prerequisite to voting, and illiterate negroes who have acquired a small piece of realty since 1903 are compelled to pay poll-taxes though they cannot vote.

⁴ This tax is \$1.50 annually.

than six months prior to such election for the three years next preceding the year in which such election is held. The clerk has the sheriff post the list at each precinct, and upon election day furnishes a list to a judge of election at each precinct. He also sends the list to the state auditor, who holds the treasurer responsible for all capitation taxes reported.

Elections.—Since the Civil War, elections have been conducted by three judges of election and two clerks of election. In 1873, when they were appointed by county or city court judges, the General Assembly provided that “whenver it is practicable to do so,” one of the three judges should be of the most numerous minority party.¹ In 1884, when the appointment was transferred from the court judges to the electoral boards, a fine of from one hundred to five hundred dollars was made the penalty for not giving minority representation; but such neglect did not make the election void.² The law of 1904 provides for minority representation “so far as possible,” and imposes a fine of from one hundred to five hundred dollars for a non-observance of this provision.

Previous to the constitution of 1869, voting in Virginia was always in that “straight-forward honorable viva voce manner of the good old days.” The introduction of the negro into politics made the dependent class of voters in the majority, and a secret ballot was the natural and proper result. Hence, from 1869 to 1894 a ballot was handed to the judges of election through a window and deposited in a ballot-box which had been opened and locked in the presence of the voters at the beginning of the election. A corrupt judge of election had an excellent opportunity to deposit several ballots from the same voter.

In 1894 the Australian Ballot Law,³ which was urged by M. L. Walton, made the ballots official. Previous to this any written or printed ballot could be used. Under this new

¹ Acts, 1872-73, c. 200.

² Acts, 1884, c. 158.

³ Acts, 1893-94, c. 746.

law, the essentials of which still exist, candidates for state and national offices notify the secretary of the Commonwealth of their candidacy; those for local offices notify the county or corporation clerk of the court. These names are then furnished the secretary of the county or city electoral board, who has them printed upon the ballots. While they are being printed he must be present; and both he and the printer must take oath, under heavy penalty, that the ballots have been secretly prepared. The electoral board then stamps upon the back of each ballot an official seal of the board's own design; wraps into separate sealed packages for each precinct twice as many tickets as there are registered voters; and forwards the same to a judge of election at each precinct, who must open the package in the presence of the other judges and the clerks of election.

The electoral board also provides a sufficient number of booths at each precinct, forty feet away from outside parties, to allow each voter two and a half minutes in the booth for the secret preparation of the ticket which a judge of election hands him when he enters. This law was construed to prohibit a party emblem upon the ballot; and the constitution of 1902 specifically prohibits it. The voter draws a line at least three fourths of the way through the name of the candidate he opposes; and by improperly marking only a part of the ballot, the remainder is valid. A ballot may not be carried outside the polls.¹ Until 1904 a voter who was physically or educationally unable to mark his ballot could be assisted by one of the judges of election selected by the other judges for the purpose.² Every one who has registered since January 1, 1904, must "prepare and deposit

¹The constitution of 1902 grants the use of voting machines, provided they allow the elector to vote secretly. None have as yet been used.

²The original measure provided for a special constable appointed by the electoral board to give this assistance, but Mr. Walton, the author of the bill, did not want a special constable. The provision for this officer was a concession to machine Democrats who wanted their electoral boards to name a constable of the dominant party. The office was dropped by the next General Assembly because of the unnecessary cost.

his ballot without aid unless physically unable"; but one who registered previous to 1904 may, for any reason whatever, "be aided in the preparation of his ballot by such officer of election as he himself may designate."

This privilege granted the old electorate is being much abused in some sections. For instance, in the 1910 election, in the ninth district where as much as fifty dollars was paid for a single vote, the seller would be required to call a specified judge of election to mark his ballot. This judge of election would signal to the purchaser whether "the goods had been delivered" before the payment was made. This privileged class of voters, however, is gradually becoming extinct.

After the ballots are counted in the presence of two electors from each party, they are strung, sealed, and, with a poll book, delivered to the court clerk of the county or city to be kept unbroken for twelve months. The second day after the election the vote for the county or city is canvassed by the clerk of the court with three other persons, who have acted as judges of election and have also been commissioned by the circuit or corporation judge for this additional function. When state or national offices are involved, the results are forwarded under seal to the secretary of the Commonwealth, and he, with the governor, attorney-general, and auditor, as a board of examiners, issue certificates of election.

This Walton Law, a modification of the Australian Ballot Law, is a great improvement upon the old system. Before this reform, voters would be made drunk the night before an election, locked up until morning, and then driven to the polls and voted. However, in Scott County in 1900 the county electoral board had the ticket printed in such a confused manner that an enormous number of tickets had to be thrown out.¹ The electoral board was Democratic; the majority of votes were to be Republican. More recent legislation has made such ballots illegal. While the ballot

¹ Richmond Times, November 24, 1900.

should be perfectly simple to vote, the arrangement of names of candidates should be made to rotate in some **irregular** manner. For two reasons this should be done; first, it would prevent the use of a stencil by illiterate voters who, by hook or crook, have been registered since 1904; and second, it would remove the unfair advantage of appearing first on the ballot. The ballots should also be numbered, that the judges can be certain that the same ballot is returned which has been taken into the booth. By losing one vote it is possible for the first voter of a corrupt clique to deposit a fake ballot, and bring a true ballot from the polls. By thus having the start of one ballot, the ballots of any number of voters can be prepared on the outside. These two precautions, namely, the rotation of the names of candidates¹ and the numbering of the ballots, could be taken by any electoral board without any general legislation.

Corrupt Practices Act.—"No candidates . . . shall expend, pay, promise, loan, or become pecuniarily liable in any way for any money or other valuable thing to influence voters on his behalf, or permit the same to be so used, with his knowledge and consent, by his friends or adherents in any election, primary or nominating convention: provided, however, that no expenditure made by any candidate or his adherents and friends for the purpose of printing or advertising in some newspapers, or in securing suitable halls for public speaking at a reasonable price, shall be deemed illegal." Nor shall any other person do the same for a candidate under a penalty, for the candidate or other party, of not more than one thousand dollars or twelve months in jail.² "No witness giving evidence in any prosecution or other proceeding under this act shall be ever proceeded against for any offense against this act or against the other election laws committed by him at or in connection with the same election, primary or convention."³

¹ An unduly long ballot tends to defeat the purpose of democracy. Subordinate officers should be appointed, thereby making more prominent the election of a few officers in whom responsibility is centered.

² Acts, 1902-3-4, c. 98. Vote-selling or vote-buying is a crime penalized by permanent disfranchisement.

³ Acts, 1908, c. 315.

After every primary or election a candidate must file, under oath, with the officer or board empowered by law to issue a certificate of election, a detailed statement of expenditures incurred because of his candidacy. Failure to file such a statement within thirty days subjects the candidate to a fine of not more than five thousand dollars; and no commission or certificate of election may be issued until such a statement is filed.

Primary Elections.—Previous to 1903 all candidates for state offices had been nominated by a state convention of delegates chosen by county or city conventions, county officers being nominated by county conventions; but in either case the party electors first met at a primary mass-meeting for each precinct. It was in these precinct meetings that muscle counted for more than merit, and a doubly strong voice frequently counted for two votes. These meetings were often held during working hours for the convenience of the idle; and if an employer of a large number of men could be induced to give half holiday on full pay, the primary was carried triumphantly.

The Democratic gubernatorial convention of 1901 made it mandatory upon the state committee to provide and execute a plan of primary for the nomination of all state officers, including United States senators. In the first primary, in 1903, viva voce voting was employed. This was especially objectionable in voting for local officers, since one often hesitated to express himself in regard to neighbors; and the vote was very light. Of course, the greatest objection to viva voce voting is the probability of intimidation and the facility for vote-buying, as the purchaser can then be sure that the agreement has been performed. Since this first primary the Australian system of secret voting has been employed, and only those whites qualified to vote at the general election are allowed to participate in the Democratic primary. The pledge required of those taking part in the primary, namely, that they will support the party nominee, keeps away some, though in most precincts the oath is not

administered, but implied. This pledge is most inconsistent with independent voting, Democracy, and good government. If a corrupt candidate, whom a voter cannot conscientiously support, enters the primary, the voter is in honor bound not to vote in that primary; and he thereby assists the corrupt candidate by his absence. The test should be whether he voted for the party candidate at the last regular state or national election. When it comes to fraudulent participation in a primary, those guarding the primary can best determine the right of the voter to participate by what he has done in the past, and not by what he intends to do in the future.

In the primary a plurality of the votes actually cast secures the nomination. In practice the number of candidates entering the primary for any one office has usually been two, which is principally due to the fact that the candidates have to bear the cost of the primary in addition to the heavy cost of the campaign. The first Democratic state primary cost \$9,800, which was assessed upon the candidates as follows: three candidates for governor were assessed \$1,500 each, and two for the United States Senate were assessed the same. The candidates for the remaining six state offices were assessed from \$100 to \$500 each. In 1911 the four candidates for the two seats in the United States Senate were assessed \$3,000 each. Though this amount is inconsiderable as compared with the cost of a well-organized campaign, and though it has a tendency to reduce the number of candidates, it seems that the primary should become a part of the state election machinery, and that the expenses of it should be borne by either the county or the State. The primary has been given statutory recognition,¹ but practically a free hand has been left to the political party.

¹ The constitution of 1902 permits the General Assembly to provide for an official primary; but this has not been done. However, Acts, 1902-3-4, c. 587, provides that, "All laws intended to secure the regularity and purity of general and local elections, and to prevent and punish any corrupt practices in connection therewith, and the penalties and punishments now or hereafter prescribed by law for such offenses, shall, so far as they may be applicable, apply to all primary elections, whether the same be held under any statute law of this State or under a plan provided by some political party."

The Republican party continues to observe the convention plan. The Democratic state committee, in providing for a state primary, has not provided for obligatory county primaries; but most of the Democratic county committees have provided for county primaries similar to the State primary.

Discussion of the Present System.—The wholesale disfranchisement provided for by the constitution of 1902 was necessary.¹ The governor of the State in his message of 1898 referred to instances where one third or one half of the Australian ballots were thrown out because of the illiterate electorate, and this was true even when all who were not too proud could seek the assistance of a judge of election. As a remedy the governor suggested an emblem ballot; but the General Assembly wisely ignored his suggestion. Is it surprising that a reform candidate cannot be elected in cities where the balance of power is in the hands of electors whose utmost discretion is shown in the choice between an elephant and a jackass? Or, illustrated in another way, is it not a *reductio ad absurdum* when voters who can neither read nor write have the balance of power to decide who is the most capable educator for the state superintendent of public instruction?

Next, as to the methods of disfranchisement. Under the temporary registration of 1902–1903 the unconditional admission of war veterans and their sons, the so-called “grandfather clause,” was a means of marching the army of whites through the fortification of the fourteenth amendment to the Federal Constitution. However, it was not without justification. One who has spent four of the best

¹ By some the convention was criticized for not submitting the constitution to the people. Had it submitted it according to precedents it would have submitted it to the new electorate; and this electorate would have ratified it overwhelmingly. Three times in the history of the State, the suffrage was extended by constitutional conventions, and each time it was ratified by the votes of the new enlarged electorate. The Democratic party, in convention, had promised to submit the new constitution, hence it committed a breach of party faith; but the constitutional convention was not bound by the pledge of any party convention, and could not have been legally bound even by an act of the General Assembly.

years of his life in the army of a State unable to pension him deserves tolerance, and many sons are now deficient in education or property because their fathers sacrificed their lives to the State and the boys had to support the war-stricken family.

The clause requiring residence for two years is good. The majority of transient voters are of that worthless class which a "ward-heeler" can use for his purpose; and those who will improve the electorate need to live in a community before learning the comparative merits of candidates. The payment of a dollar and a half annual capitation tax for the three years preceding the election, as a prerequisite to voting is an excellent provision;¹ and especially good is the requirement that it be paid six months in advance of the regular election. For revenue there is little if any justice in such a tax; but the amount is nominal for those who have sufficient intelligence and frugality to deserve a ballot. These capitation taxes are not paid by politicians to as great an extent as would be expected, and for three reasons; first, such payment is illegal; second, nominations for office are not usually made six months before election; and third, a voter who will allow his tax to be paid in consideration of his vote is not infrequently three years in arrears, and the amount to be paid is thus more considerable.

The weakness of the plan is that most elections in a one-party state are determined at the primary. In fact, in a number of counties in which an actual election contest with an opposing party will decide, the primary is held more than six months in advance of the election, so that the capitation tax requirement may be evaded. This scheme has only recently been used; and it not only enables the political parties to qualify the class which the Constitutional Convention endeavored to eliminate, but it practically forces a party organization to pay the poll-taxes of a large indifferent class who would not actually sell their votes. This encumbers

¹In the constitutional convention this section was carried by 57 to 16.

candidates with a heavy expense, and works to the advantage of a machine candidate or one who is already in office, as a candidate without means will hesitate to incur the heavy cost. This new and dangerous scheme should be checked at once by legalizing the primary and appointing dates for all primaries less than six months before the election. The saloon element has been active in paying the capitation taxes for its retainers previous to liquor local option elections. Some people hold the view that this poll-tax prerequisite injures the electorate instead of improving it. They show how professional politicians, especially in cities, look after the taxes of those who can be influenced, while many honest voters through carelessness allow the time for paying the poll-taxes to lapse. To some extent this is true. The condition should be met by requiring treasurers to notify, by a postal card, those who have not paid the poll-tax one week prior to the final date upon which the payment will qualify for voting.

The exacting of an educational test for registration is legislation in the right direction; but the provision as drafted was not favored by a strong minority of the Constitutional Convention because it placed too much discretion in the hands of the registrars. Delegates from the "black belt" claimed that a straight automatic reading and writing test would soon exclude no negroes, and that the mere acquisition of a knowledge to read and write would not make the negroes proper voters. This is true, but the requirements should be higher, and should be fairly administered to all.

Since the State has committed itself to an educational test, the questions should be uniform and the grading of the answers uniform. A few practical questions such as are now considered proper to ask orally should be prepared semi-annually for the whole State by some person or persons agreed upon by the chairmen of the two leading political parties. These questions, sealed, should be sent to a registrar for each precinct, and all over the State, on the same

day they should be answered in writing by all persons who register conditionally. The examinations could be given on Saturdays in schoolhouses, and each party could be permitted to have watchers. In the presence of these watchers the answers could be sealed and returned to the State examiner agreed upon by the two party chairmen. This examiner, with assistants, could grade the papers and issue certificates on printed postal cards. These certificates could be mailed to the persons entitled thereto, and a list of such might be sent to the county or city clerk of the court for permanent filing and public inspection. The registrar from this list might place upon his permanent list all who have been successful. Since this test qualifies one for life, the registrations at any one time would not be numerous or the cost an item worth considering. The fact of having an actual, fair test as a prerequisite to voting would make the study of the government of Virginia a study of vital interest to every seventh grade grammar school boy who is now required to take a course in civil government; and a deserving young man who has been unable to reach the seventh grade could easily learn the elements of government during evening hours.

As an alternative to the educational test there might be added a property test, that is, to allow to vote those who have paid a specified state property tax for three years past. Under the general registration of 1902-1903 a person could register who owned property upon which, for the year next preceding that in which he offered to register, state taxes aggregating at least one dollar had been paid.¹ In Washington District, Norfolk County, nearly one hundred negro men had their assessments raised sufficiently to register under this provision.² The machine was in the hands of the Democrats, but the minority faction of Democrats was accused of being in sympathy with the Republicans; and the

¹ The state rate was 40 cents on the hundred, hence the possession of property valued at \$250 was necessary.

² Article by W. S. Copeland, *Richmond Times Dispatch*, January 1, 1904.

commissioner of revenue who assessed the negroes belonged to this faction.

In the spring of 1905 the editor of the Lynchburg News collected registration data which showed that of the 147,000 negroes qualified to vote under the old regime only 21,000 had registered under the new. Of the 301,000 whites under the old regime, 276,000 had registered.¹ During the registration of 1902-1903 one registrar expressed the sentiment of many others when he said that the only reason why all the whites of his precinct were not registered was the fact that they were too "bull-headed" to try. In many other cases negroes were asked questions concerning the constitution which the registrar himself could not have answered. But now, under the pressure of local option elections, many of the worst element of negroes and whites are being admitted. At present, owing to an overlooked defect in the statute law, there is no way of getting rid of the names improperly put upon the registration books from fifteen days before the regular registration day in May until the next regular registration day before the November election. That is, only twice a year, fifteen days before each registration day, can improper registration be tested. Hence, for special and local option elections, a registrar can admit practically whom he pleases.

The requirement that an applicant for registration register, "in his own handwriting, without aid, suggestion, or memorandum," has never been uniformly administered. In some instances a printed form is used. Others have not allowed even this assistance; and in Lynchburg, in 1910, all of the registrars except one registered applicants after an oral examination, as they had done since the new registration law went into effect. The one registrar used type-written forms containing the questions to be answered. In *Anderson v. Craddock*, decided by the corporation court of Lynchburg on March 6, 1911, Judge Christian held that the oral examination was certainly improper, and that it was a

¹ Richmond Times Dispatch, April 1, 1905.

question whether the registrar who used typewritten forms had not given illegal assistance. He urged, however, that the Constitutional Convention of 1902 had intended to disfranchise the negro by giving the registrars extreme discretion, and that the registrars had conformed with the intent though not with the letter of the law.¹ The court upheld the election in the following words:

"I am satisfied that the Court has not the jurisdiction to declare void the election of December 9, 1910, simply because the registrars were grossly negligent in the performance of their duties. It would be making the innocent and qualified voters, so far as the record shows, suffer the derelictions of incompetent registrars, which is contrary to my sense of justice. The remedy for this negligence is easy for the Legislature, and in its absence should not be usurped by the courts at the cost of the citizen."

In the decision of the same year rendered by Judge McLemore of the corporation court of Suffolk it was held that a registrar may not register one who has not made application; that all constitutional requirements were mandatory, and unless they were obeyed, the voter whose name was placed upon the books by the registrar acquired no privilege as a result. The act of the registrar was void.

In liquor local option contested elections an appeal may not be taken to the court of appeals. But a registrar will certainly be on the safe side if he furnishes the applicant a copy of the law and allows the applicant to make application to register in his own handwriting; and also allows the applicant to write all questions asked him, as well as the answers thereto. A registrar should be allowed to use typewritten questions, but whether he may the courts have not decided.

¹ See Debates of the Constitutional Convention of 1902, pp. 3076-7. When the state-wide issue occurs, which is practically certain to happen at no distant date, the only way to avoid the flooding of the electorate with undesirable negroes is to permit to vote only those electors who were qualified voters at a set time previous to the time when the enabling act is passed.

CHAPTER III.

CHARITIES AND CORRECTIONS.

I. STATE HOSPITALS FOR THE INSANE.

Growth.—Two years before the Revolutionary War the first Virginia asylum for the reception of insane persons was formally opened at Williamsburg.¹ In 1828 the second asylum, known as the Western Lunatic Asylum, was opened at Staunton with accommodations for 16 men and 16 women. The asylum at Williamsburg thereupon became known as the Eastern Asylum. At the close of the Civil War the Freedman's Bureau established an asylum for sick and indigent freedmen near Richmond. Upon the discontinuance of this bureau, the inmates of this asylum other than the insane were sent to county almshouses, the insane necessarily being retained. To meet this emergency the General Assembly of 1870 established in the same temporary buildings an institution for the colored, known as the Central Lunatic Asylum.² Fifteen years ago the colored insane were moved to their new permanent Central Lunatic Asylum near Petersburg. The Southwestern Asylum was opened at Marion in the year 1887 because the other asylums were overcrowded. In 1894 the name was changed from "insane asylums" to "hospitals for the insane."

The Epileptic Colony, near Lynchburg, was opened in 1911 for several hundred patients from the other asylums, which were again crowded. A tract of land was given to the Western Hospital by Mr. Murkland in appreciation of kind treatment tendered his son at that hospital. The special

¹ This is said to be the first in America.

² In the days of slavery masters took charge of the few cases of insanity among their slaves. They were occasionally sent to the Eastern Asylum as pay patients.

board of the Western Hospital was permitted to sell this tract and purchase a more suitable one in the same county.¹ In 1910² the colony was made independent of the Western Hospital, and was placed upon the same basis as the other hospitals. One argument advanced in favor of the colony was that it could be made nearly self-sustaining. The fulfillment of this prediction remains to be seen. The same was predicted in regard to the state farm for convicts.

Since ante-bellum days a judge had had authority to place an insane person permanently in the keeping of a fit caretaker, who received the same compensation that the jailer would have received; but this privilege was abused, and it has recently been practically discontinued. The jailer's pay has been not more than 50 cents a day, at the discretion of the judge, for food and attention. The annual report of the Central Asylum for 1879 states that the 110 colored insane then in jails cost the State \$1 a day, including clothing and medical attention, while at the asylum the cost was only 55 cents a day for everything, including transportation. Until quite recently there has been scarcely a year since the Civil War when all insane could be provided for in the asylums. Conditions gradually grew worse from the date of the war until 1882, when the State appropriated \$44,060 for the care of insane in jails, which meant an average of one in every jail in the State throughout the year. Since 1882 conditions have slowly improved.³ Since the creation of a commissioner of hospitals for the insane no patients have been kept in jails for any length of time, and in 1910 the cost of those temporarily lodged in jails or with individuals was only \$2,751.

¹ Acts, 1908, c. 195.

² Acts, 1910, c. 31.

³ The superintendents of the Western Asylum state in their annual reports that in 1873 there were 300 white insane outside of asylums; in 1874, 291 insane in seventy-nine counties; in 1876, 155 applications rejected at the Western Asylum; in 1890, from 200 to 300 white insane unprovided for. In 1886 the amusement hall at the Eastern Asylum was converted into female dormitories. The superintendent of the Southwestern Asylum stated in 1894 that over 100 white insane were not provided for; and in 1899 he stated that for want of accommodations some died in jails.

The number of hospital inmates has increased constantly and very rapidly. In 1860 when the population of the State (including West Virginia) was 1,596,318, there were 672 in the asylums who cost the State \$90,000 for "support and maintenance." In 1910 when the population was 2,061,612, there were 3,996¹ in the asylums who cost the State for "support and maintenance" \$479,967.²

Control.—The control of the asylums has always been lodged in separate boards of directors for each asylum. Until 1884 these boards were appointed by the governor for three-year terms. At that time the Readjuster party declared the offices of directors vacant and provided that the board of public works should appoint.³ Two years later the Democrats provided for the appointment, by the governor, of three each year for a term of three years. This continued until the Constitutional Convention in 1902. Until 1902 a superintendent for each asylum had been elected by the respective boards of directors for two year terms, though in consideration of good behavior he was reelected except when the Readjusters made a "clean sweep." From 1900 until 1902 the presidents of the boards of directors and the superintendents of the asylums met annually to systematize the administration.

The constitution of 1902 completely changed the organization. It provides for a board of directors for each "hospital for the insane," to be appointed for six years by the governor, one director being appointed every two years. There is also a general board for the control and management of all the state hospitals for the insane, which is composed of the directors of the respective special boards. The general board is subject to such regulations as the General

¹ Eastern, 790; Central (colored), 1448; Western, 1079; Southwestern, 670.

² The figures for 1860 do not include the cost of conveyance, while those for 1910 do. This, however, is not a considerable item. Neither include cost of buildings. In 1860 \$21,000 additional was paid by patients: \$5000 at the Eastern, \$16,000 at the Western (Documents, 1859-60, Doc. No. 19). In 1910 nothing was thus paid.

³ Acts, 1883-84, c. 117, 118.

Assembly prescribes, but has full power and control over the special boards of directors and over all of the officers and employees of the several hospitals. The general board appoints a superintendent for each hospital for a term of four years, though the appointment is practically during good behavior. The special boards of three appoint all other resident officers for four years, subject to the approval of the general board. The superintendent appoints all other employees, and may dismiss the same with the approval of the special board.¹

A commissioner of state hospitals is appointed by the governor for a term of four years. He is ex-officio chairman of the general board which meets quarterly at the hospitals, once a year at each hospital, and of the special boards which meet monthly. He is responsible for the proper disbursement of all money, and maintains a uniform system of keeping records and accounts of money received and disbursed; and at least once in six months he must examine the validity of bonds given by banks where hospital appropriations are deposited. He visits the hospitals monthly or bi-monthly, usually the former, to audit accounts and to inspect. He notifies sheriffs if certain hospitals are full. The salary is \$2,000 plus \$500 for traveling expenses. In 1906 a bill was introduced in the Senate providing that the commissioner be an alienist who should receive a sufficient salary to enable him to devote his whole time to the work. As the matter stands, the commissioner is not supposed to be an alienist; and the present incumbent is a lawyer.

Commitment.—From 1874 until 1900 the insane were committed by three justices of the peace. This was essentially the method of the old English vagrant act of colonial days. In 1884 a legislative committee reported² that the privilege of committing the colored to the Central Asylum that they might receive state support was much abused by certain localities. The superintendent of the asylum testified that

¹ Constitution of 1902, Art. XI, sec. 149-151.

² Senate Journal, 1883-84, Doc. No. 33.

fifty to seventy-five imbeciles or idiots, who could properly be cared for at an almshouse at half cost, were in the asylum, though they could not possibly be benefited. From 1870 to 1886 any three directors of an asylum could reject a patient whom they considered an idiot or merely a pauper; but few were rejected. Again, in 1896, a joint committee said:¹ "We would call attention to the fact that in other states separate hospitals are provided for idiots and weak-minded patients. Some of these classes are in our hospitals, but the promptings of humanity compels us to permit them to remain instead of returning them to their homes to be confined in the jails and poorhouses of their respective counties."

Since 1900² a suspect has been brought before one justice of the peace or judge. The official summons two physicians, in no way interested, who act upon oath. If the two disagree, a third may be called in. Since 1886 the asylums have had no authority to reject any person committed by the justices, or more recently by the single justice. To reject persons committed would result in endless dissatisfaction. That many are sent to the hospitals for the insane who should be cared for in almshouses³ no one doubts. For instance, who believes that in 1910 80 per cent. more persons, according to population, became insane in the counties⁴ in which the four hospitals are situated than in the state at large? Yet 80 per cent. more were committed from these counties. This excess of admissions from these counties has always existed. The only way to check it is to have the counties and cities pay for the support of those committed from them.

Until 1908 a patient was committed at his own expense if he possessed a certain amount of property. The administration of this provision has always resulted in much injus-

¹ House Journal, 1895-96, Doc. No. 5.

² Acts, 1899-00, c. 933.

³ In most of the counties the almshouse is a miserable asylum. The small counties should combine so that enough able-bodied persons could be had to work a large farm to feed the imbeciles, who could be more cheaply and comfortably cared for if so grouped.

⁴ Towns or cities in such counties are included.

tice. In 1891 out of 600 patients at the Western Asylum only 35 were pay patients; and at the Central Asylum there has never been a pay patient. Collections were badly made. In 1906 an agent was appointed to collect back claims; and in 1908 the General Assembly provided that in the future no one should be required to pay.

Management.—In 1910 the cost per capita for maintenance was \$157.59 at the Eastern Hospital; \$126.93 at the Southwestern; \$121.62 at the Western; and \$105.69 at the Central. These figures are a good index to the management of the hospitals during the past forty years. At the Eastern Hospital in the early eighties a politician was made superintendent. He turned out all the male staff and attendants except members of the Readjuster party, and used the farm vehicles for political purposes.¹ In 1884 one meeting was actually broken up by several drunken members of the board.² The following year the main building burned because there was no night attendant. About 1905 a general disturbance arose between the board and the superintendent because the latter had a barrel of whiskey moved from the steward's room to that of the pharmacist. An investigation was made; and though the superintendent was justified in having the whiskey moved to a place of safer keeping, it developed, according to a special accountant's report in 1906, that there was an annual bill for one or two thousand cigars at \$85 per thousand; that the beef contract had not been granted to the lowest bidder; that there were no night attendants; and that no cash discounts were secured, which had caused the State to lose \$10,000 since 1899. The special accountant did not find any evidence of graft, but found the steward, the superintendent, the special board, and the commissioner of state hospitals at fault as far as ordinary efficiency was concerned.

This inefficiency for a long period naturally did not keep the asylum abreast with the times, and the present super-

¹ Senate Journal, 1883-84, Doc. No. 32.

² Senate Journal, 1885-86, Doc. No. 43.

intendent took charge of the most poorly equipped plant in the State. The asylum is three quarters of a mile from the railroad, which means an annual cost of \$1,000 for hauling coal. The inmates seemed to think farm-work degrading, for which reason the farm was not increased in size or made valuable either for diversion or financial profit. There is no cold storage and ice plant. Flour and beef are higher than at the Western or the Southwestern Hospitals, as are the larger fruits.

The Western Hospital is well located on a fertile farm at the edge of a prosperous town, and immediately at the junction of two railroads. Coal does not have to be hauled. There is a cold storage and ice plant and a large reservoir dug from the top of a hill just back of the plant by the inmates. Flour can be purchased from a mill in sight of the hospital; and the best grade of cattle are purchased and killed in the institution's own abattoir. Each year about 4,000 pounds of blood from this abattoir fatten a number of hogs. In 1910 there were gathered from the farm 400 bushels of peaches, 11,000 pounds of grapes, and several hundred barrels of apples; and 6,600 gallons of fruit were put up for winter. In fact the farm produced a profit of \$16,586. This hospital seems always to have been very well managed.

The Central Hospital (colored) is deserving of especial mention. When the original building was erected, some lax administration on the part of the board was discovered by an investigation committee; but during recent years this has been the best administered hospital in the State. The organization is almost perfect, every detail being daily brought to the attention of the superintendent. For 1910 the farm showed a profit of \$11,175. When additional farming land was needed, the superintendent saw an opportunity to buy an adjoining farm at a bargain. He bought it, and stated to the next General Assembly that he had made what he considered a good bargain. If they did not want the farm, he would keep it. The General Assembly made an appro-

priation for it. If he had simply asked for an appropriation for a farm, it is doubtful whether he would have received it for years, and when he did, a "public price" would have been placed on all adjoining land. That the per capita cost is least at this hospital is partly due to the fact that the colored attendants cost less, and that colored patients are accustomed to less attention than white patients. But the accommodations are little, if at all, inferior to those for the whites. For this saving to the State the superintendent is mainly responsible.

Treatment.—As far as freedom from physical restraint, clean and fairly comfortable quarters, and sufficient food are concerned, the writer could observe nothing deserving unfavorable criticism in the three hospitals which he visited. The superintendents of the hospitals are also physicians for the hospitals, and seem to be competent medical men. The superintendent of the Central Hospital, Dr. William Francis Drewry, especially, keeps in the closest touch with the latest treatment, and has himself contributed much, from his own observations and experiments, to the literature on the treatment of insanity. The Central Hospital was the first hospital for the insane in the South to segregate a tuberculosis colony. Dr. Drewry also colonized the epileptics some time before the white epileptics were moved to the epileptic colony. All of the hospitals are now endeavoring to colonize the different forms of insanity, but are limited because of the additional expense involved in the movement. In 1911 all of the white criminal insane were transferred to the Southwestern Hospital, where a new building was erected for them.¹

Five physicians in chief cannot attend 3,996 patients in addition to superintending the institution; and the assistant physicians are practically always inexperienced men because the salaries are not sufficient to hold the incumbents for long periods. In fact the so-called "hospitals for the insane" are hardly more than asylums for safe keeping. If for no other

¹ Even those awaiting trial may be sent here.

motive than economy the State should certainly spend more money on physicians who are specialists in nervous diseases. The number of insane and hence the cost of caring for them are increasing so rapidly that it would certainly seem a wise policy to spend more money in an effort to cure these patients when it is costing annually \$479,967 to care for them.

II. SOLDIERS' HOME.

Near Richmond a Soldiers' Home with twenty-seven acres of ground¹ was bought, paid for, and equipped in 1884 by the Robert E. Lee Camp of Richmond Confederate Veterans. Other camps added cottages. By an act approved March 3, 1892, the State accepted the property from the Robert E. Lee Camp, but possession was not to be given until 1914. In consideration of this gift the State agreed to appropriate annually for the following twenty-two years the sum of \$150 for the support of each inmate of the Home, unless the number should fall below fifty, in which event \$200 per capita was to be paid. The whole amount, however, was not to exceed \$30,000 in any one year. The State has, of its own accord, exceeded this amount.² The Home has been conducted by a board composed of thirty, twenty-seven selected by the Robert E. Lee Camp and three state officials. The residents in the fashionable section of the city of Richmond are building on all sides of the Home, and in 1914 the property will be worth approximately half a million dollars.

III. PENITENTIARY.

Management.—Virginia's first state penitentiary for solitary confinement was built in 1797.³ The plan for a semi-circular building was proposed by Jefferson, and the building, with additions, still stands in the center of the prison

¹ The General Assembly has recently given six acres of this tract to the Confederate Memorial Association for a Battle Abbey.

² In 1910 the appropriation was \$46,666. In addition to this the State appropriated \$369,373 for pensions to Confederate soldiers throughout the State.

³ Acts, 1796, c. 2, sec. 17.

grounds in Richmond. The institution has always been controlled by five directors, except from 1867 until 1903 when the number was only three. Until 1903 the governor appointed the directors annually; since that time the five have been appointed by the governor for five years. Since 1871 the board has met weekly; and since 1903 the law has required them to meet monthly at the state farm, though in practice they meet at irregular intervals. They have received a monthly report from the superintendent and another from the general agent, until the latter office was abolished; and they make a quarterly report to the governor. Until 1903 the superintendent was elected for two years by a joint session of the General Assembly; since 1903 he has been chosen by the board of directors for four years. Until the manufacturing operations conducted by the State were discontinued in 1880 he directed these operations in addition to his duties as prison warden.

Until the eighties a general agent and storekeeper was elected every two years by the General Assembly in joint session. This official purchased provisions for the prisoners and all raw materials for the manufacturing enterprises. The raw materials were manufactured under the supervision of the superintendent; but at the end of the week the finished products were returned to the general agent and storekeeper, who sold them at the prices set by the directors. He had to give surety, but was not responsible for credit given to parties designated by the directors. For selling the products he received 8 per cent. commission until 1876; 6 per cent. commission from then until 1878; and 5 per cent. commission from 1878 until 1884; though on products sold at auction his commission was only $2\frac{1}{2}$ per cent. The office was lucrative, and for six years the superintendent recommended its abolishment. It was abolished in 1884 upon the recommendation of the board of directors; and the duties, much reduced by the withdrawal of the State from manufacturing enterprises, have since been performed by the superintendent.

Conveying of Prisoners.—The cost of conveying prisoners from the county or city jails has always been considered a part of the cost of the penitentiary to the State. The superintendents in their annual reports have frequently, in "showing how much they have earned for the State," excluded this item; but it should be included, because if the central penitentiary system did not exist, this cost would not be incurred. Before 1873 the sheriff and guard received a fixed sum per mile for conveying prisoners, besides expenses. In 1873 the General Assembly made a rate of \$3 a day for the sheriff, with the payment of necessary expenses for himself, prisoner, and a guard if the court ordered the latter. In 1878 the railroad commissioner was directed to enter into two-year contracts with transportation companies for the transportation of criminals and lunatics. The approval of the governor was necessary, and the rate was not to exceed 2 cents per mile for each person. The commissioner was to prescribe routes. The county clerk furnished the sheriff with a certificate for his trip to the penitentiary; the state auditor furnished him with a certificate for his journey home; and these certificates were turned into the auditor's office at specified times by the transportation companies. Since 1896 the superintendent has sent a penitentiary guard for the prisoner, but the county sheriff may be required to deliver the prisoner to a railroad station.

When county sheriffs delivered prisoners to the penitentiary, the sheriff's bill usually included several days of sight-seeing in Richmond for himself and one or more guards. The governor of the State called attention to this condition in 1877 when the asylums for the insane were changing their methods of conveyance. In his message of 1892 the governor pointed out the fact that it had cost \$10,689 to bring 438 prisoners to the state penitentiary. He further showed that between 1873 and 1877, it had cost the State \$16,877 to bring 337 insane persons to the Eastern Asylum under the care of local officers, while from 1886 to 1890 the same number were brought for \$2,593 by guards

from the asylum. But in spite of this showing no action was taken for six years. In 1895 two ordinary prisoners were delivered from a county in southwest Virginia, for which service a bill for \$210 was presented. This excessive charge brought about a reform. In the session of the General Assembly of 1896 the superintendent of the penitentiary had a bill introduced which provided that he should send a guard for the prisoners. Even in the face of all of these facts the reform caused a storm of opposition. Blind conservatism, sheriffs who had been getting graft, and those who opposed any surrender of government functions to central officers stood in the way, but the measure passed. The cost fell off one half. In 1895, the last year under the old method, it cost \$12,780 to bring 574 prisoners; in 1910 it cost \$5244 to bring 692 prisoners. Railroad fare was the same for both years, and all other items cost from one third to one half more in the latter year.

Living Conditions.—The records of the penitentiary were destroyed at the evacuation of Richmond in 1865, but in 1871 there were 828 inmates. For economic reasons few slaves had been sent to the penitentiary; but since the war the number of negro prisoners has constantly increased,¹ and today of the 2027 prisoners in the penitentiary, at the state farm, and on public roads, 1681 are negroes. As a result of this increase of convictions the penitentiary has always been crowded. Since 1892 the insane prisoners have been moved to the asylums for the insane. In 1894 there were 1200 male prisoners in 200 cells,² so the superintendent was allowed to use the earnings of the institution to purchase a \$16,000 farm on the James River. To this farm several hundred convicts were moved, especially the physically disabled, many of whom were consumptives. This gave very little relief. Governor Charles T. O'Ferrall in his message of 1898³ said: "The penitentiary is a disgrace and reproach to the State. Prior to the late war the number of

¹ In 1910, however, less were sentenced than in 1909.

² Acts, 1893-94, c. 62.

³ Senate Journal, 1897-98.

convicts confined in the prison never exceeded, I am informed, three hundred, while now about thirteen hundred are crowded into it (very slightly enlarged), in many instances almost as thick as cattle in a railroad car, where in all seasons, particularly in winter, they breathe the fetid and poisonous air, and in summer pant for breath when locked up for the night." The management was not at fault.

The Richmond Times for January 13, 1901, stated that during the previous night three cells, taken at random, which contained 7422 cubic feet of air, held 45 men. This is 165 cubic feet of air per man when scientists prescribe 1000 cubic feet per man. The sanitation was horrible: bucket sewerage, oil lamps, and single windows covered by bunks. In justification of the management the Times, three days later, said: "There is a regular merry-go-round of whitewashing and scrubbing and cleaning, but the vermin in the hundred year-old walls laugh to scorn the whitewash brush and the scrubbing brush. They have learned too well that he who fights and runs away will live to fight another day." None of these strictures apply to the women's building, which was a modern structure. The same year the surgeon of the penitentiary reported the death rate for the penitentiary and state farm at 31.68 per 1000 in spite of the fact that many who would die if left were pardoned upon his recommendation. Considering the fact that there were no infants and few very old people, that convicts are usually hardened, and that all are forcedly temperate, this rate was very high.

No improvement was made until the Constitutional Convention of 1902 made fundamental provisions for increased revenue. Since then a new prison building has been added with the most modern method of ventilation and with a lavatory in each cell. Each cell accommodates two prisoners. With 548 convicts in state road camps and 292 at the state farm, the remaining 1182 are reasonably well quartered in the penitentiary. In 1910 the death rate

among those in the penitentiary and at the state farm was 22 per 1000; in the road camps 13 per 1000; or among all state convicts 19 per 1000. There is no mess-hall. As the convicts file by the rations booth they are served rations which they carry to their cells to eat. There they may supplement the prison diet with such food as they have purchased with money earned by exceeding the allotted task at the shoe factory. Since 1878 the superintendent has been allowed to task convicts. In 1909 the prisoners in the penitentiary earned about \$30,000 for themselves, or an average of nearly \$30 a man.

Little Effort to Reform Inmates.—The inmates are taught no trade except in the shoe factory; and as this training prepares them only for factory work, it is of little value to the negroes, since shoe factories in Virginia restrict employment to whites. There is no night school in which the illiterate are taught to read and write; nor is good reading matter furnished for those who can read. There has never been a chaplain, but on Sunday mornings and afternoons volunteers from the city of Richmond hold services in a hall which accommodates one half of the inmates. Since 1878 four days have been deducted from the sentence for each month that the prisoner has not been submitted to punishment. This applies likewise to the road force, including convicts from jails.

Since 1898, upon the recommendation of the board of directors, the governor is empowered to grant a conditional pardon to any convict who has served half of his term with good behavior. By an act of 1903 good behavior during the last two years was all that was required. Since 1904 the board of directors have used their discretion in paroling, on condition, the convicts who have served half their time, even if they have broken rules. Even life prisoners may be paroled if they have served ten or fifteen years. Since 1906 the board have required satisfactory assurance that the paroled prisoner will not become a subject of private or public charity. Virginia is the only state with a parole

system and no parole officer. The superintendent of the penitentiary has not had time to keep in touch with those paroled, and therefore exact information as to the working of the system is not available.

In 1908 an electric chair was installed. The previous year a large negro being hanged at Farmville twice broke the rope, and a demand for electrocution was at once voiced by the press. The next General Assembly made an appropriation for the chair; and provided that all felons to be executed should be brought to the penitentiary as soon as convicted. They are executed by the superintendent or by an assistant who receives no extra compensation. Only a few witnesses are admitted, and newspapers are not allowed to publish the details of the execution, only the mere fact being noted; though in fact they do publish details.¹

Employment.—The Richmond Whig for 1870² said: "This institution from its foundation has ever been a serious burden upon the State treasury. When six hundred able-bodied laborers make a loss there must be something wrong somewhere." The same year the governor of the State was authorized to hire convicts, whose terms of service did not exceed ten years, for suitable public work outside of a town. In his message of the following winter he deplored a penitentiary loss of \$70,000 to the State. For the next decade the governor furnished convicts to railroads, canals, and quarries, and to counties for road making. The counties accepted few. The conditions varied. The aim was to make the convicts self-sustaining, but this was not accomplished. The convicts were not well cared for and the mortality was great. During the years 1879 and 1880 seventy-seven escaped from the camps; and the camps continued to be an expense to the State. From the close of the Civil War until 1880 manufacturing by the State had not made the penitentiary self-sustaining. As a matter purely of dollars and cents, this incurred a heavier cost to the State

¹ Acts, 1908, c. 398.

² February 19, 1870. See also for January 9, 1871.

than the system of leasing the prisoners to outside contractors. The inmates were learning trades, however, and were better treated than those leased outside of the penitentiary. But unfortunately the times were so out of joint economically and politically during this period that no valuable lesson can be drawn.

In 1880 the boot and shoe factory was turned over to Davis and Company, a Massachusetts firm; the barrel factory to a Richmond gentleman; and the other two branches of manufacture were discontinued. The barrel factory was later succeeded by a tobacco factory, which was run until 1897; since that time the shoe factory alone has been run inside the penitentiary. This simple method of leasing the convicts for inside work proved more satisfactory and profitable than either manufacturing by the State or hiring to outside public works, and hence the former was discontinued in 1880 and the latter gradually.

The governor in his message of 1894 said: "The ablest hands have been hired to railroads, but no bonds were taken for the payment of their hire; the statute did not require it, and much money was lost because of this failure. The State clothed, fed, guarded and supplied the convicts with medical attention and medicines, and took in return the worthless bonds or naked promises of the various companies, which have never been redeemed." Though counties could have convicts at the actual cost of supporting and guarding them, they did not use any considerable number at any time until recently. For instance, the governor mentioned the fact that only fifty were used by counties in 1893.

In 1898 the penitentiary board contracted with the Davis Boot and Shoe Company to furnish them at least one thousand hands for fifteen years at 42 cents a working day for men, and 35 cents for women. The factory buildings within the walls are furnished by the State, and all costs of support and guarding are borne by the State. The board has been criticized for this contract. But by this system of indoor contract work, at approximately the above prices, the

penitentiary, during the panic decade from 1888 to 1898, had made for the State \$105,510, besides paying for the state farm. As far as can be learned, in every decade in its history, under other systems, it had been an expense to the State. Counties would not use the convicts, and the State at that time did not have sufficient revenue to work them on roads, and therefore the penitentiary board had to act. The only question is whether they could have contracted for a shorter term.

According to the state auditor's annual reports, the penitentiary, at least since the Civil War, was never self-sustaining (except during the year 1882) until the year 1889. During the decade from 1889 to 1898 inclusive the profit to the State was \$105,510 plus a \$16,000 farm as mentioned above. From 1899 to 1903 inclusive, \$89,600 of profits was paid the State. The Constitutional Convention of 1902 separated the management of the penitentiary and the state farm; but since the farm is largely a hospital for the penitentiary, the profit or loss of the two must be considered jointly and separately. Considered jointly, they have cost the State for support \$144,780 in excess of income. Considered separately the penitentiary has made a profit of \$28,391, the Farm has shown a loss of \$173,171 since 1903.¹

Since the contract was made in 1898 the general level of prices has changed to the disadvantage of the penitentiary. Wholesale prices in March, 1910, were 33.8 per cent. higher than the average prices for the ten years from 1890 until 1899.² Had prices not so changed, instead of a combined deficit at the penitentiary and farm in 1910 of \$32,702 there would have been a profit. If the contract with the shoe people is renewed in 1913 by the board of directors, which has full authority, the term of years need not be so long, as the buildings, machinery, and trained labor are

¹In 1910 the penitentiary showed a loss of \$5182; the farm, \$27,520. In all the above profits and losses the item of new buildings has not been included. These have cost the State at least \$276,827 since the Civil War.

²Bulletin of the United States Bureau of Labor, No. 87, March, 1910.

already in place. Also the wages received for the work of the convicts should be at least one third more than at present. The counties should be furnished as many convicts as they will use on the roads; but long-term prisoners should be worked within the walls.

State Farm.—When a farm was purchased on the James River in 1894, it was thought that this could be made a self-sustaining asylum for those physically weak, if the nine hundred acres were worked by able-bodied men. But disappointment has resulted. Guarding the prisoners in the fields is expensive, and the farm did not lend itself to intensive trucking. The annual report of the superintendent of the farm is regularly a history of spring freshets and fall droughts.

Until 1899 the farm was supervised by the superintendent of the penitentiary. From 1899 until 1903 a manager was appointed by the governor, but he was under the control of the superintendent of the penitentiary. The Constitutional Convention thought it best to locate the responsibility, and since 1903 an independent superintendent of the farm has been elected for a term of four years by the board of directors of the penitentiary and state farm. In addition to farming, the convicts have worked a quarry and have crushed stone for sale. Like the former state-managed enterprises, this has not been an unqualified success. In 1910 out of an average prison population on the farm of 287, not more than 75 were able to work.

Convict Road Force.—In 1906 an act provided that a prisoner convicted of felony and sentenced for two years or less might be sentenced to "hard labor on public roads," and turned over to the superintendent of the penitentiary, to be kept as a member of the state convict road force. In 1908 this provision was extended to include all prisoners sentenced for five years or less. The state highway commissioner, who fills a new office created in 1906, makes requisition on the superintendent of the penitentiary for so many convicts sentenced to hard labor; but the convicts

are still guarded, fed, and clothed by the superintendent of the penitentiary.¹ In 1910 the total cost per convict to the State, including transportation,² was 66 cents per day. Medical attendance must be furnished by the county in which the force is working. In 1911 the state appropriation for the maintenance of this convict force was \$70,000. These convicts are furnished free to counties provided the work done is permanent and is done under the supervision of the state highway commissioner. The commissioner appoints an engineer for the work, who receives not more than \$1,200 a year. The labor of the convicts, estimated at \$1 a day, must not exceed 40 per cent. of the total cost of the road to the county or locality.

In Virginia the minimum sentence in the penitentiary is one year,³ but in the road camps jail convicts are also used. While a prisoner is in jail awaiting trial he is permitted to work in one of the camps. If he is afterwards convicted, he gets credit for the time he has worked; if he is declared innocent, he receives 50 cents a day for the work done.⁴ After conviction, all except short-term prisoners are expected to be sent to road forces; but on September 30, 1910, there were 1,636 idle persons in the jails of the State. It is profitable to hold them, as the State pays the jailer for their board. If the cities and counties were required to pay jail board, more of the idle prisoners would be in the state convict camps, where the prisoners are excellently provided for and kept in good health. In 1911 there were thirteen of these camps, in 1910 there were fourteen. The convicts in these fourteen camps worked for a total number of 149,729 ten-hour days at a cost to the State of about 66 cents a day per capita. There was an average of 49 men

¹ The state highway commissioner may demand that the superintendent of the penitentiary dismiss any guard on the road force who is insubordinate to the engineer's orders.

² The railroads of the State have voluntarily hauled gangs of road convicts free; but when only a few convicts are transported, free transportation is not applied for.

³ There is one dead-letter law providing for a six months' penitentiary sentence in case of fraudulent voting.

⁴ This law is not enforced.

to a camp. For this work 467 prisoners were taken from the jails and 420 from the penitentiary.¹

In addition to the \$70,000 to support convict forces, the State in 1911 appropriated \$200,000 from the general fund, plus approximately \$38,088 automobile tax, as a conditional gift to road building. Counties which have not applied for a convict road force have this fund distributed among them, according to population, for permanent road building, on condition that the county apply for it and appropriate a like amount to be spent under the direction of the state road commissioner. Only seven of the seventy-seven counties entitled to the gift rejected it, and the \$200,000 plus approximately \$38,088 was distributed among the seventy according to population.

The law in regard to convict labor and that in regard to money aid are separate laws. The first law is very defective. First, it provides that the convicts sentenced to hard labor on roads may not be worked inside the penitentiary. As a result of this provision, when the convict fund did not hold out during the winter of 1910-1911, a number of convicts were being fed in the penitentiary who could not be worked until several counties agreed to support them for their labor. Again, to work convicts economically they must be in large gangs, and for this reason about fifty are sent to the small as well as the large county. The two laws should be combined. The convict force fund (\$70,000 in 1911), the state aid fund (\$200,000 in 1911), the automobile tax fund (approximately \$38,088 in 1911), and all convicts sentenced to hard labor on roads should constitute a total to be distributed on the same conditions that now apply to the state aid fund. The fund should be distributed according to population. One day of convict labor should be in lieu of a certain amount of money; and until all convicts are engaged, that is, contracted for, no money should be distributed. The value of convict labor could be determined by competitive bidding on the part of counties.

¹ Report of the State Board of Charities and Corrections, 1910.

That is, the convict labor could be furnished to the highest bidders as long as any road convicts remain.

IV. REFORMATORIES.

The "Prison Association of Virginia" was incorporated in 1890 with thirteen members, though any one may become a member by paying a nominal fee. The object of the association is the improvement of the government, discipline, and management of all prisons in the State; the amelioration of the condition of prisoners; the encouragement and aid of discharged convicts, and the commitment to the association of such youthful and petty criminals as the State may see fit. In 1894 the association built a reformatory at Laurel, near Richmond, partly with state aid, but principally by private subscriptions. Since 1896 the institution has received from the State 25 cents a day for board, and now receives \$10 per annum for clothes, for each minor committed to it by a judge or local magistrate.¹ Since 1904 all minors have been sentenced on indefinite terms. The superintendent, who is selected by the Prison Association, prescribes a conditional sentence, as directed by the association, according to the offense. By good behavior this term can be shortened; by bad behavior it is prolonged. However, the Prison Association or the governor of the State may parole a boy at any time on condition of good behavior. The secretary of the state board of charities and corrections keeps track of those paroled. During the year 1910 the average age of those committed was thirteen and three tenths years. Of the commitments 54 were for incorrigibility; 4 for misdemeanor; 42 for larceny; 49 for felonies. On March 1, 1911, there were 211 names on the rolls.

This institution is far preferable to the state penitentiary, which still receives part of the youthful offenders of the State, but is hardly deserving the name "reformatory." In fact it is called "Laurel School." The boys go to school for

¹ In 1910 and 1911 this was supplemented by \$10,500 per annum. The state school board contributes \$1000 per annum for teachers.

three hours a day, but have no study period at night. During half of each day they work on the farm, make cement brick, or work in a so-called tailor shop where they make rough clothing for their own wear. They are not taught a trade. As the institution no longer receives material aid from the Prison Association, it should be taken over by the State and placed under the board of charities and corrections. This statement does not indicate an intention to underestimate the noble work done by the Prison Association when the State was in need. It is simply pointing out a need that the Prison Association realizes as well as the writer.

In 1900 a "Negro Reformatory Association of Virginia" was incorporated which has done for the negro boys what the Prison Association of Virginia has done for the whites. The State pays 25 cents a day for the support of not more than 150 boys. This reformatory has a larger farm, has had enthusiastic superintendents, and has been more successful than that for the whites; and this result has been accomplished with meager support from the State. In 1910 a reformatory for white girls was established at Cady, and it now has about 25 inmates.

Board of Charities and Corrections.—The General Assembly of 1908¹ established a board of charities and corrections, composed of five unpaid members appointed by the governor, one annually, for terms of five years. The board met eleven times in 1910. The duties of the board are strictly visitorial and advisory, without executive powers. The board elected Rev. Joseph T. Mastin executive secretary over sixteen applicants, though he had not applied for the position. His duties are to visit state, county, city, and private eleemosynary, charitable, or correctional institutions at least once a year. The secretary spends most of his time visiting, leaving the office in charge of an efficient assistant secretary. He has an assistant visitor who devotes most of his time to visiting the homes in which children are placed

¹ Acts, 1908, c. 276.

by orphanage societies. The members of the board assign themselves state institutions to visit twice a year. Local visiting boards are also appointed for each institution. Plans for jails, almshouses, or reformatories must be submitted to the secretary for suggestions. The work is worth much more than the annual appropriation of \$5000. The powers of the board should be extended, and the work of the several reformatory associations should be centralized in this board.

CHAPTER IV.

PUBLIC HEALTH.

Early Health Laws.—A department of public health was not established in Virginia until 1908. The part played by the State in relation to public health is, however, worth relating. As early as 1777 a person with smallpox or other contagious disease was to leave the road as another approached, and, like the lepers of old, cry "Unclean, unclean;" in other words, warn the one who approached.¹ In 1814 the governor of the State was authorized to appoint a vaccine agent in the city of Richmond who should furnish vaccine free by mail to any citizen of the State; and for this purpose \$600 per annum was appropriated.² The office of vaccine agent was abolished in 1821,³ but was revived in 1832.⁴ From this time until 1890, when the office was finally abolished, vaccine was distributed free, at a cost to the State never exceeding \$750 per annum.

In 1853 provision was made for the registration of births and deaths.⁵ The commissioners of the revenue, who made an annual assessment of property, were allowed ten cents for every birth or death reported. The nature of the birth and the cause of the death were reported, and physicians were required to keep a record of deaths from which the commissioners might check. This was repealed in 1898, since which time neither births or deaths have been registered.

From 1860 until 1882 any overseer of the poor might cause any person to be vaccinated at the expense of the county.⁶ Since 1882 the common council of the city or town

¹ Acts, 1777, c. 5.

² Acts, 1813-14, c. 14.

³ Acts, 1820-21, c. 8.

⁴ Acts, 1832, c. 25.

⁵ Acts, 1852-53, c. 25.

⁶ Code, 1860, c. 86, s. 15.

and the county board of supervisors have had authority to compel all persons to be vaccinated, paying for such as are unable to pay.¹ In 1894 the General Assembly enacted that no pupils should be admitted to public free schools unless they had been vaccinated, "provided that this provision may be suspended in whole or in part by the school board of any city or of any district."² Two thirds of the school children are today (1909) not vaccinated.³

Board of Health.—In 1872 a state board of health and vital statistics was created, which consisted of seven physicians appointed by the governor of the State for a term of four years. They held quarterly meetings in Richmond. The duties were: to communicate with local boards of health, with hospitals, asylums, and public institutions; make sanitary investigations and inquiries respecting the causes of disease; and devise a scheme whereby medical and vital statistics might be obtained. They were specifically authorized to report as to the effect of intoxicating liquor as a beverage upon the industry, happiness, health, and lives of the citizens of the State.⁴ A proviso which made this law appear more like a dream, declared: "Provided that the board of health shall not in any way be a charge upon the State." In 1896 the board was given power to adopt such rules and regulations and issue such orders as might be necessary to prevent the spread of contagious and infectious diseases; and an appropriation of \$2000 per annum was made to pay the salary of a permanent secretary to reside in Richmond, a per diem of \$4 for members of the board while attending meetings, and incidentals.⁵

Four years later the Medical Society of Virginia was allowed to nominate the members of the state board, from whom the governor continued to appoint.⁶ The same act created county boards of health. The judge of each county

¹ Acts, 1881-82, c. 166.

² Acts, 1893-94, c. 843.

³ Annual Report, Health Commissioner, 1909.

⁴ Acts, 1871-72, c. 91.

⁵ Acts, 1895-96, c. 612.

⁶ Acts, 1899-1900, c. 1146.

or corporation was to appoint biennially three physicians, recommended by the County Medical Association, if such a society existed; and these three with the clerk of the court and the chairman of the board of supervisors composed the local board of health. The board was given power to compel vaccination and quarantine, and was obliged to report monthly to the state board. The secretary of the local board was health officer of the city, town, or county. If such boards were not appointed, the state board could appoint agents to be paid by the local government.

While this state board was slowly evolving, six other boards which are concerned with public health have come into existence. The board of medical examiners was created in 1884,¹ the board of pharmacy and also the board of dentistry in 1886,² the board of embalmers in 1894,³ and the board of examiners of graduate nurses in 1903.⁴ All of these boards are nominated by the respective professional societies, and are appointed by the governor of the State. They are no expense to the state treasury, as each is supported by examination or license fees, including nominal annual registration fees; and no person may practice one of the above professions without satisfying the conditions of the proper board and keeping up his annual registration. In 1910 the General Assembly, upon a recommendation of the State Dental Association, passed an act requiring all future candidates for the profession of dentistry also to pass an examination for the practice of medicine.⁵ There is also a board of plumbers consisting of four in each city of more than eight thousand inhabitants. The members are appointed by the city council, and the inspectors are paid by the city, though each plumber must pass a practical examination and pay an annual registration fee of fifty cents.⁶ This last

¹ Acts, 1883-84, c. 48.

² Acts, 1885-86, c. 223; c. 364.

³ Acts, 1893-94, c. 625.

⁴ Acts, 1902-03-04, c. 191.

⁵ Acts, 1910, c. 178.

⁶ Acts, 1901-2.

provision is a scheme on the part of labor unions to exclude "scabs," especially negro "scabs."

Since 1877 there has been a board of quarantine commissioners for Elizabeth River and its branches, composed of seven physicians, appointed by the governor of the State for two years without pay. The board appoints one or more assistants who examine all incoming vessels. The assistants are paid from a fee of \$7 on each vessel inspected.¹ Since 1898 they have also had power to inspect railroad trains when there is suspicion of contagious diseases.²

During the last two decades a number of public health measures have been enacted without provision for any state officer to enforce them. In 1892 a fine was enacted for the pollution of water used for the supply of cities and towns.³ The same year it was made unlawful to make, sell, or serve oleomargarine,⁴ but this law was modified to the extent that the product must always be labeled oleomargarine, even by a poster in hotels or restaurants where it is served. Another law the same year required the railroad agent, when a corpse is to be transported, to take a certificate from the undertaker and the local health officer or physician testifying as to the nature of the disease from which the patient died and the precautions taken.⁵ Since 1904 the consent of the state board is required before transportation in certain cases of contagious diseases.⁶ The same General Assembly appropriated \$2000 for free treatment of the eyes of the poor of the state in a Richmond charitable hospital. A county physician and county judge had to testify to the needs of the applicant.⁷ This appropriation was not continued. In 1896 it was provided that animals dying of contagious diseases must be buried or burnt; and if this was not done by the owner, the justice of the peace could have the same done at

¹ Acts, 1876-77, c. 114.

² Acts, 1897-98, c. 538.

³ Acts, 1891-92, c. 460.

⁴ Acts, 1891-92, c. 526.

⁵ Acts, 1891-92, c. 578.

⁶ Acts, 1902-03-04, c. 607.

⁷ Acts, 1891-92, c. 608.

the expense of the owner.¹ In 1898 an act providing for a fine of from \$20 to \$200 and the forfeiture of the candy was enacted against the manufacturer of candy adulterated with terra alba, barytes, talc, or other deleterious substances.² In 1906 it was made a fineable offense to expectorate in public places or on the sidewalk.³ In 1908 peanut cleaning establishments and cotton factories were required to furnish each employee with a mouth sponge at cost.⁴

In 1900 the board of agriculture was authorized to enforce the pure food laws, and to accept all Federal classifications and make additional ones.⁵ In 1903 \$2000 was appropriated to enforce the pure food law.⁶ In 1908 it was provided that the sheriff, superintendent, or other person in charge of any prison, almshouse, hospital, or other institution deriving the whole or a part of its support from the state must have any person suspected of consumption examined; the patient must be segregated within forty-eight hours, the room occupied by the patient must be fumigated, and the state board notified of the case.⁷

Department of Public Health.—In 1908 the General Assembly created a department of public health with an annual appropriation of \$40,000, and a new state board of health superseded the old one. The present board consists of twelve men who must be members of the State Medical Society. The governor appoints three annually to serve for four years, and one must live in each congressional district, with two additional ones from the city of Richmond. "The board may adopt by-laws for their government and make such rules and regulations not inconsistent with the law as they may deem proper."

The governor also appoints a commissioner at a salary of \$3500 for a term of four years who acts as the executive

¹ Acts, 1895-96, c. 327.

² Acts, 1897-98, c. 56.

³ Acts, 1906, c. 302.

⁴ Acts, 1908, c. 228.

⁵ Acts, 1899, 1900, c. 655.

⁶ Acts, 1902-03-04, c. 87.

⁷ Acts, 1908, c. 41.

officer of the state board. The health commissioner with the approval of the state board appoints assistants. At present the department is organized into seven bureaus, as follows: administration, rural sanitation, Catawba Sanatorium, laboratory, education and publicity, inspections, and sanitary engineering. Each bureau is in charge of a salaried head who is responsible for the work of his bureau. The members of the board receive a per diem of \$8 while actually engaged in the work of the board, with mileage. The board maintains laboratories in Richmond for the free examination of clinical material submitted by members of the medical profession of the State, and for research in and study of infectious diseases, epidemics, and methods of preventing and curing diseases. The board is also directed to locate sanatoriums for the treatment of tuberculosis, where state patients may be treated at the minimum expense.¹

The department was organized in the summer of 1908. Owing to the limited powers of the board of health and the health commissioner it was thought best to begin with an educational campaign. Since then the Virginia Health Bulletin has been issued monthly in editions of ten thousand or more copies; and these are distributed free to the public health officers, physicians, preachers, and teachers, and in some cases to every name on the poll books of districts where there is an infectious disease. The bulletins deal with prevalent diseases and sanitary measures in general. A number of circulars on "Bedside care of Infectious Diseases" were sent to each physician to distribute where needed. A bound volume of these health bulletins is sent with each state circulating library.

Hundreds of lectures, usually illustrated, have been given by the commissioner and assistant commissioner. The method by which the bureau of education and publicity utilizes the newspapers of the State is so suggestive to propagandists that we shall quote a passage from the 1910 Annual Report of the Commissioner of Health: "We have several canons for the publication of weekly news. These are, first,

¹ Acts, 1908, c. 361.

let the items be *news*. They must, of course, carry strong health teachings, if they accomplish our purposes, but they must be couched in such form as to give them a real news value. Second, the news must be so sent that it can be printed simultaneously everywhere in the State, without preference for any locality or any paper. Third, the news must reach the weekly papers in time to be of service to them. Fourth, the news, when it leaves this office must be 'ready for the hook,' that is, it must be in such newspaper form as to require no editorial revision of any sort.

"The bureau conforms to these requirements in a manner which is at least simple. The director of the bureau, himself a former newspaper man, selects from the news of the department and from our exchanges those items which appeal to him as possessing a news as well as an educational value. These are prepared with great care, and are supplied with 'set heads' which are in general use among the newspapers of the State. These heads are accompanied by 'guide lines,' so that the city telegraph editor can tell at a glance whether or not he has headline type suited to the heads. As this is the case in at least ninety per cent. of the newspaper offices in the State, the average editor has no delay in revising our copy. Furthermore, a uniform 'release date' for the whole State is attached to every clipping sheet sent out, so that any newspaper can print any item at the proper time, with the assurance that no other paper has 'scooped' it. To meet any possible need, we supply a number of small news items every week which have no release date, are concise in form and can be used as fillers by a busy editor.

"The director is glad to report that this system is working admirably, and from the exchanges which come to this office, he is safe in saying that at least 200 health items are printed weekly in the State by practically all of the daily and weekly papers. We attach great importance to the value of these items since they are far more widely read than any bulletins we might issue, no matter how large the editions.

Indeed, we believe that few persons in the State who read any particular papers, daily or weekly, fail to see, at least once a week, that some dangerous disease can be prevented.

"In this connection the bureau can not too strongly urge upon health departments of other states and health workers generally, the proper use of the newspapers. It is not difficult to ascertain the wants of the press, which are by no means unreasonable, and when these are met, health workers have an ally second to none in point of influence and genuine public service."

In 1910, 1079 free laboratory examinations were made for the physicians of the State for typhoid fever; 1379 for diphtheria; 1586 for tuberculosis; 223 for hookworm; 80 miscellaneous; and 433 specimens of water were analyzed for health officers, physicians, and civil authorities.

The board furnishes diphtheria antitoxin and vaccine virus to health officers at a minimum cost, and fumigating materials, with directions for use, are sent to any individual at a small cost. Under the original arrangement between the department and the manufacturers of diphtheria antitoxin, the reduced rates were not to apply to any persons except those to whom its purchase at the regular retail rates would be a hardship. This is the usual arrangement in other States; but it was found difficult to live up to this agreement, since the antitoxin was dispensed through local boards of health. Accordingly, the manufacturers were induced to remove the restrictions, so that now any one can secured it at the reduced price.¹ The boards of health in many counties order it from the state department and keep it on hand for distribution.² The counties furnish it free

¹	Regular manufacturer's list price.	State price.
1000 Unit Dose	\$2.00	\$0.49
2000 " "	3.50	0.89
3000 " "	5.00	1.29
5000 " "	7.50	1.89

² It may be exchanged for fresh at the following rates:

1000 Unit Dose	\$0.10
2000 " "	0.20
3000 " "	0.30
5000 " "	0.40

to the poor, at cost to others. The local board, or the doctor who orders it, is responsible for the purchase price. The department reports shipments to the manufacturer, who in turn renders a bill to the local board or doctor at the state rates. In 1910, 18,318,000 units of this antitoxin were distributed, and the quantity will greatly increase as the people learn that the quality is identically the same as that of any other diphtheria antitoxin, since it is standardized by the Federal Government.

This arrangement of the department has made possible the distribution of this antitoxin for nearly \$25,000 less than it would have cost the consumers through the former channels of distribution; and since no diphtheria antitoxin is prepared within the State, there was an absolute saving to the people of the State of about \$15,000. That is, the 18,318,000 units were purchased through the department for \$15,000 less than druggists of the State would have paid for the same amount and quality.¹ The total cost of the health department for 1910, exclusive of the Catawba Tubercular Sanatorium, was only \$21,370.

The Catawba Sanatorium for consumptives was established in 1910 near Roanoke, where state patients only are received at \$5 a week for board, lodging, nursing, and medical attention. Thirty patients, the present capacity, are now being treated.

In 1910 the General Assembly greatly strengthened the powers of the state board by an act which we must quote in part verbatim: "The State Board of Health shall have the power to make, adopt, promulgate and enforce reasonable rules and regulations from time to time requiring and providing for the thorough sanitation and disinfection of all passenger cars, sleeping cars, steam boats and other vehicles of transportation in this state and also of all convict camps, penitentiaries, jails, hotels, schools and other places used by or open to the public; to provide for the care, segre-

¹ Druggists in the State, with a few exceptions, pay the regular list prices, that is, \$7.50 for a 5000 Unit Dose, less 25 per cent. discount.

gation and isolation of persons having, or suspected of having, any communicable, contagious or infectious disease; to regulate the method of disposition of garbage or sewerage and any like refuse matter in or near any incorporated town, city, or unincorporated town or village of this State; to provide for the thorough investigation and study of the causes of all diseases, epidemic and otherwise, in this State, and the means for the prevention of contagious diseases, and the publication and distribution of such information as may contribute to the preservation of the public health, and the prevention of disease; to make separate orders and rules to meet any emergency, not provided for by general rules and regulations, for the purpose of suppressing nuisances dangerous to the public health and communicable, contagious and infectious diseases and other dangers to the public life and health."¹

Another law passed in 1910 requires every physician to report all cases of infectious, contagious, communicable disease to the executive officer of the county, city, or town, upon a blank furnished by the state board.² Another law of the same session requires the state board to inspect every hotel of the State once a year; this inspection is to be paid for by a fee of twenty-five cents for every room inspected, provided that no hotel shall pay more than ten dollars. The details of inspection are numerous. Sheets must be changed after each guest, and must be ninety-six inches long so as absolutely to prevent the occupant of the bed from coming in contact with the blanket. All rooms must be fumigated twice a year.³ The inspection was begun in the fall of 1910. The only feature of the inspection law which has caused any considerable complaint is the feature requiring the use of sheets ninety-six inches long, and the requirement that rates be posted in the hotel lobbies. The inspector has refused

¹ Acts, 1910, c. 179.

² Acts, 1910, c. 66.

³ Acts, 1910, c. 229.

to issue certificates until all requirements are complied with, but has not yet prosecuted those who are dilatory in complying, on the ground that some leniency should be shown with reference to details for the first year, in order that the adjustment may come with the least friction.

CHAPTER V.

AGRICULTURE.

Ante-Bellum.—During the ante-bellum days of slavery, legislation was not often resorted to in Virginia as a direct means of promoting or protecting agricultural pursuits. In fact, for more than a decade after the war there was little direct state participation in matters relating to agriculture, such legislation as there was being of the most elementary nature. For instance, in 1870 the General Assembly provided that, “whenever any Spanish, Mexican, Texan, or Indian cattle arrive within this state” during the summer season, the county judge is authorized to appoint a board of cattle inspectors, composed of three “discreet persons,” to determine whether such cattle are infected with the Texan or Spanish fever. If the board found the cattle to be infected, it was to have the county sheriff kill the cattle at the expense of the owners. Each member of the board received two dollars for each day he was actually employed. But at the end of the act was a proviso exempting from the act all cattle already in the State.¹

Department of Agriculture.—In 1877 a “department of agriculture” was created; an appropriation of \$5000 per annum was made, the first money appropriated by the State for the direct promotion of agriculture. A commissioner was appointed by the governor for a term of two years, with a salary of \$1500 per annum. The commissioner appointed his own clerk and was authorized to appoint a geologist and a chemist. His duties were first, to prepare a geological handbook of the State; second, to analyze soils and samples of each brand of fertilizer sold in the State; third, to prepare in Richmond a cabinet of state minerals; fourth, to examine questions of interest to horticulturalists, fruit growers,

¹ Acts, 1869-70, c. 374.

dairymen, and sheep raisers; fifth, to provide for the distribution of seeds furnished by the Federal Government.¹

In 1888 a "board of agriculture and immigration" was created. It was composed of one member (whose principal occupation was agriculture), from each of the ten congressional districts of the State, appointed by the governor for four years; and not more than two thirds of the members could be selected from the same political party. The department of agriculture was placed under the control and management of this board. The commissioner of agriculture, as ex-officio member of the board, acted as secretary and treasurer. The board met annually; and the annual appropriation for the department was increased from \$5000 to \$10,000.²

The department of agriculture has never been thoroughly reorganized. When new agricultural functions were undertaken, a new officer was engrafted, or the function was given to another department of government. The constitution of 1902 provides that the commissioner of agriculture shall be elected every four years by the voters of the State. Until 1903 the board met once each year; since 1908 it has met each year three times. One third of its members must be from the minority political party. The revenue for the department has gradually increased, but has been derived mainly from special registration and inspection fees.³

Fertilizer Inspection.—In 1871 a law was enacted requiring all packages of fertilizers sold in the State to bear a stamped or printed label, giving the name of the manufacturer, the weight of the contents, and the percentage of chemical constituents. Any person selling fertilizers unlabeled or mislabeled was subject to a fine of \$100 for the first offense and \$200 for subsequent offenses. One half of the fine was to go to the informer, the other half to the State. Any purchaser of fertilizers improperly labeled

¹ Acts, 1876-77, c. 249.

² Acts, 1887-88, c. 433.

³ The fertilizer tax, \$51,661 in 1910, is the entire source of revenue, except an infinitesimal fee from lime.

could recover the purchase price. If bought from one residing outside of the State, the purchaser could proceed by attachment against any property found within the limits of the State.¹ It was easy enough for the manufacturer to stamp certain formulas upon the packages, but unless he was sufficiently honest to do so without a law, there was little incentive, as a result of this act, for him to stamp the correct constituents. How many farmers know how or where to have fertilizer analyzed? And even if they know, the expense of analysis is heavy for small buyers.

In 1873 the governor was authorized to appoint a state assayer and agricultural chemist. He received no salary, but was paid by those availing themselves of his services.² This, however, was of little help to the average farmer. This legislation in regard to fertilizers, like all legislation that does not provide for a definite person to carry out its provisions, accomplished little.

An improvement upon the above law was enacted in 1890.³ A manufacturer or dealer, before offering fertilizer for sale in the State, had to furnish the commissioner of agriculture with a sample of each brand. The commissioner had his chemists analyze the same, and the analyses were published for the benefit of the public. The cost of this was defrayed by a registration fee of \$100 for all manufacturers or for dealers handling brands from factories which had not paid this registration fee. There was no guarantee that the sample was a fair one; and this defect was not remedied until 1900, when field inspectors were appointed. However, any person selling fertilizer was obliged, upon the request and in the presence of the purchaser to seal and send a sample of such purchase to the state chemist of the agricultural department, who analyzed it, free of cost, and reported the ingredients to both parties. If the analysis fell 10 per cent. in value below the manufacturer's represented analysis, the purchaser could recover the purchase price; or

¹ Acts, 1870-71, c. 227.

² Acts, 1872-73, c. 146.

³ Acts, 1889-90, c. 105.

if bought on credit, he could refuse to pay. These fees and fines prescribed for certain violations on the part of manufacturers and dealers were considered part of the State's \$10,000 appropriation to the department of agriculture. There was still no special officer to enforce the law, though the enactment of the law made it easier for the individual to protect himself.

In 1894 and 1897 the specific fee charged the manufacturers was modified to a fee which bore some relation to the quantity produced. In 1896 the commissioner of agriculture was authorized to seize all fertilizers sold in violation of the law; and should the court having jurisdiction sustain him, they could be sold and the proceeds used by the department of agriculture. The intention of the legislators was good; but since they neither provided funds nor authority to appoint field inspectors they accomplished little.

The new century brought a decided forward step in the administration of fertilizer inspection. The law¹ passed in 1900 provided for a field inspector to be appointed by the board of agriculture for each of the ten congressional districts, with a salary of \$75 per month and expenses while engaged in the spring and fall. These inspectors draw samples of fertilizers offered for sale, and also draw samples for farmers, when requested. Of the 471 samples drawn by the inspectors the first year 200 fell below the manufacturers' guarantee. The law of 1890 allowing farmers to send samples to the state chemist at the time of purchase remains in force, and if the seller is not present, any justice of the peace or any notary public, upon the payment of 25 cents by the purchaser, may witness that a correct sample is sent. The manufacturers' inspection and license fee was changed to 15 cents a ton. The registration fee was dropped, as samples were no longer analyzed when the name of the brand was registered. This ton tax of 15 cents is administered by means of tags sold by the department of agriculture, one tag being placed on each bag of

¹ Acts, 1899-1900, c. 10.

fertilizer. In 1910 this tax was supplemented by a registration fee of \$5 for each brand sold in the State. This is simply a revenue measure advocated by the department, since it is largely dependent upon the fertilizer tax. From September 1, 1910, to August 31, 1911, these five dollar fees yielded \$10,675 revenue.

It was enacted in 1908¹ that these tags should be a different color each year, to facilitate inspection; and that common carriers transporting untagged fertilizer should be fined from \$25 to \$200 for each offense. The act provides also that no fertilizer may be offered which contains less than 11 per cent. of plant food. If it falls between 5 and 10 per cent. below that guaranteed to the commissioner of agriculture or marked on the bag (for the department no longer analyzes the manufacturers' samples), it is the duty of the commissioner of agriculture to assess twice the value of such deficiency against the manufacturer of or dealer in the fertilizer contained in the lot or car from which the sample is drawn; if it is 10 per cent. below he must assess five times the value of the deficiency. The commissioner of agriculture must require the manufacturer, dealer, or agent to make good such assessments to all persons who purchase such fertilizers from the carload from which the sample is drawn. This provision protects the farmer from buying a low-grade article under a high-sounding name, like "Mammoth Grower." Farmers themselves send very few samples; and it was soon found that it was impracticable to learn the names of all the purchasers from a carload which had been found deficient by samples sent in to the department by inspectors.

In 1910, therefore, the department had a bill introduced into the General Assembly allowing the department to collect the penalty when the purchaser could not be located. This measure passed the House, but during the last few days of the session was killed in the Senate by three senators, the rule being that no measure might come to a

¹ Acts, 1908, c. 72.

vote if opposed by three members. Hence the enforcement of this law is impossible, and today the department has many claims which cannot be collected because the purchasers cannot be found.

Since this fertilizer law is being enforced by officers of the State, the whole amount of money paid as penalty should come to the department of agriculture or the State. The only justification for giving the penalty money to the individual purchasers of inferior fertilizer is to induce the purchasers to help enforce the law. They have not done this, and therefore the total receipts for penalty fines should be used for the improved state enforcement of the inspection law. If in 1910 a few among the purchasers of approximately \$7,000,000 worth of fertilizers were defrauded, how many must have been defrauded several decades ago when a purchaser's only method of judging a fertilizer was by its smell; when a polecat dragged through a carload added more to its marketable value than a ton of potash.

The most effective weapon in the hands of the department is publicity. The persons on a large mailing list are supplied with a monthly bulletin containing the claimed and the actual analyses of all fertilizers analyzed during the month. When a bad sample is found, a manufacturer will beg with excuses that it be kept off this list, but without avail.

In 1910 agricultural lime was brought under inspection. The manufacturer or, if the manufacturer has not paid, the dealer must pay to the commissioner of agriculture a registration fee of \$10 annually for each brand sold in the State. It is inspected by fertilizer inspectors, and purchasers and sellers may jointly send in samples; but the only penalty if the lime falls more than 10 per cent. below the standard guaranteed to the commissioner of agriculture is that the latter officer must prohibit the sale of the lot of lime in the State.

Inspection of Trees.—The first state law dealing specifically with the inspection of trees was passed in 1890.¹ In

¹ Acts, 1889-90, c. 189.

any county where fruit trees were affected by the "yellows" it was the duty of the county judge, upon the request of ten reputable freeholders, to appoint one or more orchard inspectors for one season; but the appointment had to be approved by the board of county supervisors. The inspector was paid by the county \$1.50 for each day engaged, provided the maximum cost to the county did not exceed \$30 per annum. The commissioner of agriculture, as "chief inspector of orchards," furnished the inspectors with suitable blanks for reports. Trees diseased beyond remedy were destroyed at the expense of the owner.

In 1896 the board of control of the state agricultural experiment station at Blacksburg was authorized to designate a scientific member of the experiment station staff to act as state inspector,¹ but no appropriation was made. In 1898 an appropriation of \$1000 was made by the State, and an inspector was sent out to cooperate with locally appointed inspectors. The counties were no longer restricted as to the amount they might appropriate.²

By an act of 1900 this same board of control of the agricultural experiment station also became known as the "State Board of Crop Pest Commissioners." It was directed to appoint a state entomologist and pathologist who should succeed to the duties of the inspector as described in the last paragraph. In addition to supervising the inspection of trees, he was to prepare a list of insect pests that might be eradicated, with descriptions of them and the means of eradication. This board was given authority to provide rules and regulations under which the state entomologist and pathologist should proceed to control, eradicate, destroy, and prevent the dissemination of crop pests, and these rules and regulations were to have the effect of law in so far as they conformed to the act and to the general laws of the State and of the United States. The entomologist had to provide for an annual inspection of nurseries and for a

¹ Acts, 1895-96, c. 829.

² Acts, 1897-98, c. 567.

guarantee of nursery stock, the railroads not being allowed to deliver stock not properly tagged.

For the carrying out of the above act an inadequate appropriation was made, but in 1903 an annual appropriation of \$6000 was made, plus a fee of \$20 required from every nurseryman, to be paid to the state auditor of public accounts. This act also provides that when ten freeholders petition the entomologist, he shall in person, or by deputy, visit the section; and if he finds any crop pests, he shall appoint an inspector for the locality, who must be paid by the county.

Seed Inspection.—A seed law, enacted in 1910, has for its object the improvement of the quality of agricultural seeds and the elimination of impurities and of weed seeds. All seeds in packages weighing more than fifty pounds must be labeled, stating the quality of the seed. If the seeds reach a certain standard of purity and germination, they must be labeled "standard"; if not, the kinds and the percentage of impurities must be stated. The commissioner of agriculture has appointed a seed analyst, who tests samples free for farmers and at a cost of fifty cents a sample for dealers. Samples of seeds are drawn all over the State, by the pure food inspectors, to test the accuracy of the label guarantees. The analysis of these samples are published in the monthly fertilizer bulletins.

Protection of Domestic Animals.—The first paragraph of this chapter gives the elementary provisions of the law of 1870 for the protection of cattle. This law remained practically unchanged until 1896, when the protection of cattle was recognized as a central state function. The Federal Government has protected the State so well by quarantine against southern and western infected cattle that the energies of the State have been directed almost exclusively against diseases among its own cattle. This work has been done, since 1896, through the state experiment station at Blacksburg. The development from 1896 to 1908 would not be

instructive, hence we shall briefly describe the law of 1908,¹ which superseded all previous laws.

The board of control of the state experiment station at Blacksburg is to act as a state live stock sanitary board, and its members are empowered to "establish, maintain and enforce such quarantine lines and sanitary rules and regulations as they may deem necessary"; to cooperate with similar boards of other states; to employ a state veterinarian and assistants to enforce their regulations; and to compel railroad corporations to disinfect cattle cars. The expenses of the enforcement of these provisions are paid out of the treasury of the State upon warrants drawn by the chairman of the above board.

A special state quarantine requires the approval of the governor of the state; but a local quarantine restricted to a farm or a county may be declared by a county board of supervisors or by the state veterinarian. If the board of supervisors of any county feels that there is occasion for alarm, the state veterinarian is to be summoned at once. Any expenses resulting from the orders of the state veterinarian are borne by the county, though the state veterinarian receives no fees in addition to his state salary.

Immigration.—Since its creation the board of agriculture has endeavored to advertise the resources of the State for the purpose of encouraging immigration; but never before 1906 was money appropriated directly for the purpose. From 1906 to 1910 inclusive \$5000 annually has been appropriated.² The first two seasons George W. Koiner, commissioner of agriculture and immigration, made trips to Northern Europe. As Canada had more than three hundred immigration agents in Great Britain who offered free passage to Canada and 160 acres of land, and as immigrants from Southern Europe were not desired, the commissioner changed his policy, and is now advertising in the north central and northwestern States of the Union. Advertise-

¹ Acts, 1908, c. 202.

² This appropriation was not made for 1911 because of necessary temporary retrenchment.

ments are placed in farm journals during the season when farmers are snow-bound; and upon inquiry a hand-book, with a map and a description of each county of the State, is sent with answers to specific questions. As a result, the department received during this season about fifty inquiries daily, and about two thousand farmers came to the State last year from Ohio, Michigan, and other States of the Middle West. Most of these had capital and experience, and came because of the climate and the cheap lands of the State. Taxable values are much enhanced by their coming. One farm in King George County, in 1910, produced a 400-acre alfalfa crop worth \$85 an acre on land purchased less than five years before for \$25 an acre by a gentleman from California.

Experimentation.—In 1886 the following act was passed by the General Assembly of Virginia:¹ "Whereas congress proposes to make an appropriation for the maintenance of agricultural experiment stations at the several agricultural and mechanical colleges of the United States, be it enacted by the general assembly of Virginia, that an agricultural experiment station be and is hereby established at the Virginia Agricultural and Mechanical College at Blacksburg, the same to be maintained by appropriations made by the congress of the United States." The station, which is known as the Virginia Experiment Station or State Experiment Station, has always been supported by the Federal Government, and is now receiving \$30,000 annually. The board of visitors for this school is also the board of control for the state experiment station,² and in 1888 the board was authorized to establish branch stations.³

Beginning with 1906⁴ and since that year, \$5000 has been

¹ Acts, 1885-86, c. 311.

² It must be held in mind that the board of visitors for the Virginia Agricultural and Mechanical College, the board of control of the State Experiment Station, the state live stock sanitary board, and the state board of crop pest commissioners are the same board, though the different phases of their duties are, in practice, carried out by committees.

³ Acts, 1887-88, c. 284.

⁴ Acts, 1906, c. 226.

annually appropriated by the State of Virginia for the purpose of conducting experiment stations and publishing the results.¹ The appropriations are expended as directed by the executive committee of the above board; and experiment stations are now conducted at Appomatox, Axton, Bowling Green, Chatham, Louisa, and Rustsburg. Independent of these stations, the state board of agriculture has established three experiment stations; one at Saxe, Charlotte County, in 1901; a trucking experiment station at Norfolk, in 1907; and another station at Staunton, Augusta County, in 1910. The station at Saxe has been supported by the department of agriculture from the fertilizer tax fund; but for 1910-1911 both the station at Saxe and the station at Staunton are being supported and managed by the state experiment station just as the six stations mentioned above are managed. The Norfolk station is supported by an appropriation of \$5000 from the fertilizer tax fund of the department of agriculture and an equal amount from the ordinary funds of the State. The superintendent of the Norfolk station is elected by a board representing the state department of agriculture, the state experiment station, the Norfolk Produce Exchange, and the United States Department of Agriculture. Experiments carried on at this station by the United States Department of Agriculture are paid for by the Federal department.

Teaching and Demonstration.—The Virginia Agricultural and Polytechnic Institute, established in 1872, offers a four-years course in agriculture and a six-weeks winter course to farmers. Beginning with 1910-1911, movable schools of agriculture, lasting from three to ten days, are sent when requested by as many as fifty farmers. The teachers are furnished by the Agricultural and Polytechnic Institute, but \$2500 is given by the State for traveling expenses. The State also gives a like amount for extension demonstration work by one man, who instructs individual farmers in all

¹ This \$5000 is supplemented by a like amount from the United States Bureau of Plant Industry.

parts of the State who will lay off an experimental plot and follow the demonstrator's directions.

The department of agriculture conducts farmers' institutes. Previous to 1900 the department aimed to hold one institute in each congressional district, but seldom succeeded. Between 1900 and 1910 as many institutes were held as the limited revenues of the department would permit. In 1910 the commissioner of agriculture appointed a director of institutes; and during the months of February, March, and April, 1911, he held twenty-one day institutes away from the railroads and fifty-eight half-day institutes from passenger coaches. Railroad companies furnished the trains free; and the department furnished the lecturers, who are specialists, to address the farmers that collected in the coaches. The Norfolk and Western Company, for example, furnished a train of seven first-class brand-new coaches for two weeks. A similar train will be run in the fall. It is estimated that twenty thousand farmers attended these spring institutes. The institute work is supported by \$10,000 appropriated annually: \$5000 from the fertilizer tax fund, and the same amount from the general state funds.

The department of public instruction conducts an agricultural and industrial department in a high school of each congressional district at the total cost of \$30,000, which is appropriated by the State. This department of public instruction also supervises boys' corn clubs in cooperation with the farm demonstration work of the United States Department of Agriculture. For this the State appropriates \$5000.¹

Pure Food.—In 1898 an oleomargarine law was enacted imposing a fine not exceeding \$250 upon any factory, store, hotel, café, or other public eating place which made, sold, or served oleomargarine, or used it in cooking, without

¹ One half of the salary of county demonstrators is paid by the county, the other half by a fund from the General Education Board, slightly supplemented by the State. For 1911 the forty-odd thousand dollars from the General Education Board was distributed conditionally by the United States Department of Agriculture.

posting a sign in a conspicuous place, printed in black letters one inch square on a white background: "We sell oleomargarine here," of "We serve oleomargarine here." No special officer, however, was provided to enforce the law. In 1900 a pure food law,¹ fashioned after the Federal pure food law, included the provision in regard to oleomargarine; and the provisions of this law were to be enforced by the commissioner of agriculture. The commissioner, however, did not have available funds from the fertilizer tax, and a special appropriation was not made until 1903, and then only \$2000 per annum.

In 1908 the office of dairy and food commissioner was created. The commissioner is appointed by the governor for four years on a salary of \$2500. He is to work with the department of agriculture; and his deputy food commissioner and other assistants are to be appointed jointly by the commissioner of agriculture and the dairy and food commissioner, subject to the confirmation of the board of agriculture. This new commissioner enforces all pure food laws, including the oleomargarine law, dairy product laws, and cattle feed laws. The chemical work is done in the laboratories of the department of agriculture. The office is supported by an annual appropriation of \$7500, plus a registration fee of \$5 from the proprietor of every skimming station, creamery, cheese factory, condensed milk factory, or milk depot where milk is received from three or more persons, plus a tax of 15 cents a ton on concentrated commercial feeds which are inspected and analyzed for constituents of food value. This last tax is enforced by means of tags like the fertilizer tags described above, and it is collected by this division of the agricultural department. It is claimed that these special inspection taxes are better collected by the department which profits by them than if the auditor should collect the same, since the fertilizer and pure food inspectors in the field can observe and report violations; and these officers are not directly responsible to the state auditor.

¹ Acts, 1899-1900, c. 225.

The pure food inspectors not only send samples of foods to the state chemist of the agricultural department but inspect the premises of such places as restaurants, bakeries, meat markets, and cold storage plants. An important part of their work is the inspection of stock feeds. As some one has said, "They see that no rice hulls and oat hulls come into the State, and that all peanut hulls go out." The dairy inspectors inspect the creameries, dairies, stables, and cows. The State appropriates \$5000 annually to pay for cattle condemned on account of tuberculosis.

RECAPITULATION FOR 1910.

- A. State Department of Agriculture and Immigration: commissioner and board.
 - 1. Trucking Experiment Station at Norfolk.
\$5000 fertilizer tax fund.
 - 2. District Experiment Stations at Saxe and Staunton.
Fertilizer tax fund.
 - 3. Farmers' Institute.
\$5000 State.
\$5000 fertilizer tax fund.
 - 4. Fertilizer Inspection.
Fees and tax on fertilizers.
Much more than self-sustaining.
 - 5. Seed Inspection.
Fees and fertilizer tax fund.
 - 6. Immigration.
\$5000 State.
- B. Division of Dairy and Pure Food Inspection: commissioner.
 - 1. Food Inspection.
\$7500 State.
Fees and tax on feed.
 - 2. Dairy Inspection.
\$5000 State for condemned cattle.
Fees.

C. Agricultural and Mechanical College: president and board.

1. State Experiment Station.
\$30,000 United States.
2. District Experiment Stations at Appomattox, Axton, Bowling Green, Chatham, Louisa, and Rustsburg.
\$5000 State.
\$5000 United States.
3. College.
\$20,000 United States land-script fund.
\$30,000 United States.
\$55,000 State.
4. Movable Schools of Agriculture.
\$2500 State.
College.
5. Demonstration Extension Work.
\$2500 State.
6. Live Stock Quarantine.
\$3500 State.
7. Nursery and Orchard Inspection.
\$6000 State.
Fees.

D. Department of Public Instruction: superintendent and board.

1. Agricultural Departments in High Schools.
\$30,000 State.
2. Agricultural Experiments and Demonstrations.
\$2500 Common School Fund.
3. Boys' Corn Clubs.
\$5000 State.

Suggestions.—This recapitulation shows that the agricultural functions of the State are being administered by four different departments, which are under three different boards; and two of the commissioners are elected independently of these boards. The commissioner of agriculture

and immigration is elected by the people, and the commissioner of pure foods and dairy inspection is appointed by the governor; hence, since these two are practically independent of the board, there are five practically independent sources of state agricultural administration instead of one secretary of agriculture, such as we find at the head of the Federal agricultural functions.

Not only is the work of each department largely independent of that of the others, but several departments are performing similar functions. For instance, three of them are carrying on the same kinds of experimental work; three are conducting teaching and demonstration work; and three have police functions, such as inspection. This very much weakens a farmer's interest in the State's efforts, since the average farmer is at a loss to know where he can get desired information. And no wonder he is at a loss. If his hogs get cholera, he should communicate with the commissioner of agriculture for cholera serum. If his cattle contract tuberculosis, he should communicate with the commissioner of pure foods and dairy inspection in Richmond. If his horses are sick with distemper, the veterinarian at Burkeville should be consulted. If his trees have the San Jose scale, he should seek help from the state entomologist at Blacksburg. If his soil needs treatment, he does not know where to write, since the state chemists and state experimenter are in opposite ends of the State under separate boards.

The cause of this condition lies partly in the very recent expansion of the State's interest in agricultural functions. The unsatisfactory condition, however, is recognized, and a measure became law in 1910 which created a united agricultural board, composed of the governor, superintendent of public instruction, commissioner of agriculture, president of the Agricultural College and Polytechnic Institute, one member of the board of visitors of this school, director of the State Experiment Station, supervisor of district experiment stations, and general director of demonstration work of the United States Department of Agriculture. The gov-

ernor is chairman of the board. Traveling expenses and hotel bills constitute the only compensation of its members. The board is directed to assign to the respective departments such functions as seem appropriate thereto.

The above legislation is in the right direction, but was intended only as a temporary expedient. Its weakness consists in the fact that it attempts to centralize the agricultural activities of the State without placing anybody in the center. The governor is chairman of the board, but however interested the governor may be in the development of the agricultural activities of the State, he has not the time to do more than suggest and stimulate. Moreover, the next governor may not be so interested in this branch of government as is the present incumbent, Governor Mann. The other members of the board also will be able to devote only a small part of their time to the work of the board.

It seems to the writer that a reorganization should take place with a commissioner of agriculture and the board of agriculture at the head. This office and board are provided for by the state constitution, hence the reorganization could come about through the General Assembly. The commissioner of agriculture should have under him three bureaus with three heads appointed by him, with the consent of the board. He should have full power to dismiss these three heads, else he could not be held responsible.

These three bureaus should be experimentation, teaching, and police (inspection), and the head of each bureau should appoint all of his subordinates. Then the system would appear as follows:

Department of Agriculture: commissioner and board with committees.

- A. Bureau of Experimentation: state experimenter.
 - 1. Central Experiment Station.
 - 2. District Experiment Stations.
 - 3. High School Experiment Plots.
 - 4. Demonstration Extension Work.
 - 5. Boys' Corn Clubs.

- B. Bureau of Teaching : president of Agricultural College.
 - 1. College.
 - 2. Movable Schools of Agriculture.
 - 3. Farmers' Institutes.
 - 4. Agricultural Departments of High Schools.
 - 5. Immigration.
- C. Bureau of Police (Inspection) : state inspector.
 - 1. Fertilizer Inspection.
 - 2. Seed Inspection.
 - 3. Food and Feed Inspection.
 - 4. Dairy Inspection.
 - 5. Live Stock Inspection.
 - 6. Nursery and Orchard Inspection.

CHAPTER VI.

PUBLIC SERVICE CORPORATIONS.

Board of Public Works.—During the first half of the nineteenth century it was the policy of Virginia to encourage internal developments by state aid; from the Civil War until the end of the century liberal charters induced northern capital to carry out private enterprises; but during the first decade of the present century, control of corporations has been the problem.

Previous to 1816 the State had purchased bank stocks, canal stocks, and pike stocks to encourage internal development. Further, to encourage internal improvements, the General Assembly of the above year appropriated these stocks, the dividends from the same, and all bank charter fees for fifty years to serve as a "Fund for Internal Improvements." To administer this fund, a "Board of Public Works" was created, a corporate body composed of the governor, treasurer, attorney-general, and ten citizens elected by the General Assembly. Five of the ten citizen members were required to live west of the Blue Ridge Mountains.

This board met annually, and subscribed to the stock of improvement companies when so directed by the acts of the General Assembly; but it was allowed to subscribe only when three fifths of the stock was subscribed by private parties and when one fifth was actually paid.¹ Evidently the board was imposed upon, because a few years later an act required it to examine carefully the financial character of subscribers of the required three fifths of the stock. Another duty was to appoint commonwealth directors in the various corporations to which the State had subscribed.

In 1831, as a result of the new constitution of 1830, the board was reorganized. The governor, lieutenant-governor,

¹ Acts, 1815-16, c. 17.

treasurer, second auditor, and surveyor of public works composed this board.¹ Two years later the personnel of the board was again changed to the governor, treasurer, first auditor, and second auditor.² In 1837 an extensive act providing for the chartering and control of railroads gave additional duties to this board. The railroads had to report their gross and net receipts to it every three years. As soon as the original cost of the road, with 6 per cent. interest, should be returned to the stockholders, the board was to prescribe such rates as would leave 6 per cent. dividends for the stockholders.³ The last provision would not be likely to burden any board with rate making; nor did it.

Previous to this the state aid to banks, canals, and macadamized and plank roads had not brought a heavy debt upon the State; but railroad building proved more expensive. In 1838 the board was directed to borrow "in America or Europe" when authorized by law; and by 1861 nearly one hundred acts had authorized them to invest or to guarantee to those who would invest, thereby making the state debt about \$33,000,000, representing appropriations in excess of state revenues. This encouraging of railroads added greatly to the duties of the board. For example, in 1849 it was authorized to build a railroad from near Charlottesville to Waynesboro, by tunneling through the Blue Ridge Mountains. Two years later a permanent secretary was attached to the board.

The constitution of 1851 again changed the personnel. From this date until the end of the Civil War the board consisted of three commissioners elected by the people of the three districts into which the State was divided for this purpose. They met monthly, and retained a permanent secretary. During the Civil War we find them compelling the railroads to haul fuel-wood into Richmond at a reduced rate.

This board, ever-changing in personnel, assumed its last form by the "Reconstruction Constitution." From 1870

¹ Acts, 1831, c. 112.

² Acts, 1833, c. 112.

³ Acts, 1836-37, c. 118.

until 1902 the board consisted of the governor, auditor, and treasurer. During this period the duties of the board, as from time to time prescribed by the General Assembly, were varied. For example, in 1871 they were authorized to exchange stocks and bonds held by the State in internal improvement companies for state bonds, both to exchange at par; or else to sell the stocks to the highest bidder, provided the price was not below par value.¹ In 1874 they were ordered by the General Assembly to furnish a plan for fish ladders, which all owners of dams were compelled to install. Ten years later they were directed to select a plan for a new hospital for the insane. The same year it was made their duty to appoint directors of the three hospitals for the insane, also visitors for the Deaf, Dumb and Blind Institute and the Virginia Military Institute. Though the board existed until 1902, it was robbed of most of its duties in 1877, when the General Assembly provided for a railroad commissioner.

Railroad Commissioner.—The office of railroad commissioner was created in 1877 because the roads were charging rates which were considered unreasonable and discriminatory as to Virginia cities. The commissioner was elected by the General Assembly for a period of two years, and was allowed to appoint his own clerk. He had general supervision over steam railroads only. If he wished to have a road enjoined for the violation of its charter or of other law, he had first to get the consent of the board of public works. He could order repairs to a road, better station facilities, reduced fares for passengers, or reduced rates for freight; but if his orders were not complied within sixty days, he had to consult the board of public works, who could act "as they deemed expedient."²

In 1878 the General Assembly directed the commissioner to contract with the railroads for the transportation of convicts and insane, provided the rate should not exceed two

¹ Acts, 1870-71, c. 210.

² Acts, 1876-77, c. 254.

cents a mile by the shortest route, which route must be followed. The following year an act directed him to post in railway stations all laws and rules regulating railroads.

In the governor's message of 1891-1892 complaints of discriminations in rates and schedules to the injury of certain cities were voiced. Hence, an act was passed prohibiting a greater charge for a short haul than for a long, but providing that the commissioner might make exceptions to this rule. Each railroad had to file a schedule of rates and fares with him; and from time to time the General Assembly called upon him for statistics concerning railroads. With the control of the board of public works on one side and continual special legislation on the other, the commissioner could not develop strength. In fact, the powers of both the board of public works and the railroad commissioner weakened while the volumes of acts of the General Assembly were swelling with special legislation.¹

Organization of the State Corporation Commission.—In the new constitution of 1902 one third of the long document is devoted to a detailed provision for a unique commission to be known as the "State Corporation Commission."² It was deemed best to make the detailed provisions of it fundamental rather than statute law for various reasons; first, the average caliber of the members of the convention excelled that of the General Assembly.³ Again, a commission with such strong powers needed the prestige of a body especially entrusted with the sovereign powers of the people. Further, the General Assembly would probably have limited the

¹The governor in his message of 1891-92 deplored the bulk of private legislation. Of the 1293 pages of acts for the preceding session 1043 were devoted to private legislation. But no reform came until the Constitutional Convention of 1902, when such administration functions as the issuance of charters, control of rates, and granting of pensions were transferred to boards and commissions. General rules were, of course, reserved for the General Assembly. As a result of this reform more legislation is found in the 670-page volume of acts for 1910 than in the 1500-page volume for 1900.

²Constitution, 1902, Art. XII.

³On the committee which drafted the law were such constitutional lawyers as Senator John W. Daniel and Hon. A. Caperton Braxton, to the latter of whom is to be ascribed the idea of such a commission.

appropriations for the support of the commission to the extent of robbing it of its dignity and power; and, instead of having the commissioners appointed for long terms by the governor, would have provided for short-term commissioners elected by the General Assembly itself.¹ And when it came to bestowing legislative, judicial, and executive powers upon one body, the assemblymen's preconceived reverence for the Montesquieu-Jeffersonian division of powers would have been an unsurmountable barrier.

The commission is composed of three members, one being appointed by the governor every alternate February for a term of six years, at a salary of \$4000 per annum, with \$500 extra for the chairman. One of the three must have the qualifications prescribed for members of the supreme court of appeals; and each must take oath that he has no financial interest in any transportation or transmission company. Free railway transportation is accorded the commissioners when on official business within the State. The expenses of the commission are paid from the state treasury, but an annual registration fee for corporations, ranging from \$5 to \$25 according to the amount of capital stock, was imposed to cover this new item of expense. These fees have become more than sufficient.

Its functions are legislative, judicial, and executive. It creates, regulates, and supervises all domestic corporations, except municipal corporations and institutions owned by the State; and it regulates and supervises all foreign corporations permitted to do business in the State. The legislative functions of the commission are to prescribe rates and classifications for transportation companies; to prescribe rates for transmission companies; and to prescribe other regulations, such as demurrage charges.

The commission is a court of record, with a clerk, bailiff, and other necessary court subordinates; it may compel the attendance of witnesses or the production of papers; it may

¹ The General Assembly in 1908 came within two votes of agreeing to submit to the people the question of popular election of the corporation commissioners.

fine or imprison for contempt; and its members may be impeached. In fact it has every essential of a court, and is a court. From time to time the General Assembly refers to this court matters which that body had formerly decided. For example, in 1910 the General Assembly was asked for permission to place additional toll-gates on the Valley Pike, that the toll might be more fairly distributed. The matter was referred to the corporation commission.

There is, of right, an appeal from the commission to the supreme court of appeals in the same manner that appeals may be taken from other courts, but they must usually be taken within six months, always within twelve. Writs of mandamus and prohibition lie from the court of appeals. When an appeal is taken to the court of appeals from a decision prescribing rates, charges, or classification, the transportation or transmission company either puts such rates or charges into effect pending the appeal, or else files with the commission a bond sufficient to guarantee the refunding of all overcharges in case the commission is sustained. When the supreme court of appeals declares void a rate determined by the commission, it must prescribe a substitute therefor, which has the same effect as if prescribed by the commission.

The corporation commission was created with the hope of avoiding tedious litigation with the carriers and years of delay. It was thought that inquiry might be made into the rates by judicial investigation before the rate has been prescribed, and that this judicial inquiry, which is conceded to be necessary to avoid the constitutional guarantee against confiscation, would assure due process of law to the carriers. It was believed that the rates so prescribed would not be attacked by any other body, except that the Supreme Court of the United States, on writ of error, could review the decision of the supreme court of appeals.¹

Though the commission is endowed with these important legislative and judicial functions, it is also an administrative

¹ Proceedings State Bar Association, 1909, pp. 205, 255.

body. It issues all charters, amendments, or extensions thereof for domestic corporations, and issues licenses to foreign corporations; and it regulates the issue of corporation stocks and bonds. The constitution provides that the General Assembly shall neither grant, amend, nor extend any charter by special acts, but it may repeal any charter at any time. Neither may the General Assembly, by special act, regulate the affairs of any corporation, nor give it any rights, powers, or privileges. From time to time the commission examines whether the charter rights are being exceeded or abused by transportation or transmission companies; and it possesses full rights to examine the books and papers of these corporations and to prescribe uniform methods of bookkeeping. It assesses the real and personal property of all public service corporations for state, county, and district taxes. It also levies the fees, the franchise, and the license taxes of this class of corporations. The assessment of mineral lands biennially is also supervised by this body. It may order an improvement in the physical condition of a road, in rolling stock or stations; and it may require proper connections at junctions, or even additional trains and employees if the traffic is not being promptly handled. All of the functions that the board of public works and the railroad commissioner performed before 1902 are now performed by the corporation commission.

Working of the State Corporation Commission.—The corporation commission was formally organized May 2, 1903. Its first important legislative order was issued, after giving the railroad companies an ample hearing, on the 13th of August, announcing a schedule of rules regulating demurrage, car service, and storage charges. An appeal was taken to the court of appeals, denying both the jurisdiction of the commission and the fairness of the rates. The commission was upheld on both points, with a few minor exceptions.

In 1905 an investigation of freight rates was entered upon;

and on October 15, 1907, a single uniform freight classification went into effect. On December 18, 1906, telegraph rates were prescribed, and were put into effect on the appointed day. The following year when the telegraph operators were on a strike the Bell Telephone Company doubled its night rates. It was summoned before the commission and ordered to continue the old rates until permission was granted for the change, should a change be allowed. Upon a hearing the proposed increase was permitted.

In 1906 the General Assembly passed a resolution directing the corporation commission to prescribe a two-cent maximum passenger rate. This resolution was not binding upon the commission, since the assembly is constitutionally prohibited from regulating rates. However, the commission on July 31, 1906, caused a notice to be served on the steam railroads doing business in the State, declaring that the commission would, on November 1, 1906, hear and consider objections which might be urged against the fixing and prescribing of a two-cent rate for the transportation of passengers between points in the State. The railroad companies appeared and filed their objections. Between this date and April 27, 1907, the companies were given public hearings which covered several months, and no company was denied the privilege of introducing any evidence offered. On this last-named date the commission ordered the two-cent fare to go into effect July 1, 1907, on the ten strongest roads of the State; two and one half cents on three branch roads; three cents on twelve roads, and three and one half cents on twelve roads whose passenger traffic was especially light.¹

Instead of appealing to the court of appeals, a privilege which is allowed of right by the constitution of the State, six of the roads, on May 15, 1907, brought suit in the United States circuit court to enjoin the commission from enforcing the order of April 27. The suit was based on the following claims:

¹ Fifth Report of the State Corporation Commission, pp. 71-112.

1. That the corporation commission had erred in holding the rate in question to be not less than reasonable;
2. That the proceedings of the commission in which this decision was reached did not amount to due process of the law;
3. That to require the judicial question of the reasonableness of a rate to be passed upon by a special court, organized differently from the ordinary courts, would deprive the companies affected of the equal protection of the laws;
4. That the commission could not act judicially because it is clothed also with legislative and executive powers;
5. That the State had bound itself not to regulate rates except under circumstances which do not exist, and therefore the act of the commission impaired the obligation of the contract between the State and the company; and,
6. That, inasmuch as interstate rates are built upon intrastate rates, any regulation of the latter by the State is a regulation of interstate commerce, and is void.

The court issued a preliminary injunction restraining the members of the commission and the clerk from further proceedings in the matter. On June 27, 1907, the defendants (members of the commission) filed an answer denying the jurisdiction of the court on the grounds that it was in "substance and effect" a suit against the State of Virginia, and was in violation of the Eleventh Amendment of the Federal Constitution; and further that the commission is a judicial court of record of the State, and could not be enjoined by a Federal court. These objections of the defendants were overruled, and an interlocutory injunction was issued.

At this stage an amicable compact was made for the purpose of expediting the litigation and obtaining an early decision from the Supreme Court of the United States.¹

¹ A settled policy of the commission is to adjust all complaints by mediation if possible.

The members of the commission agreed not to defend the suit on the merits of the rate set, but to allow the injunction to become permanent, that an appeal might be taken at once from the decision of the circuit court to the United States Supreme Court. The six railroads agreed that, notwithstanding the injunction, they would put in force the reduced rates prescribed by the commission until the decision of the United States Supreme Court should decide first, whether the State of Virginia had violated the Constitution of the United States or the Bill of Rights of Virginia by combining legislative, judicial, and executive functions in a single body; and second, whether the circuit court of the United States properly had jurisdiction in the case. Should the constitutionality of the commission be upheld but the jurisdiction of the circuit court be denied, it was agreed on the part of the commission that they would grant another hearing to the roads on the merits of the rates, which would then have been given a reasonable trial.

The State of Virginia retained Senator John W. Daniel and Honorable A. Caperton Braxton to assist Attorney-General Anderson, and a hard fight was made for the very existence of the legislative and judicial sides of the commission. On November 30, 1908, the Supreme Court rendered its decision. The decision was that the State, by its constitution, may combine legislative and judicial functions in a single body; but that the function of determining rates is a purely legislative one. Therefore, in prescribing rates, the court performs a legislative act, and the enforcement of the act is strictly administrative, and is not immune from a Federal injunction. However, the circuit court had committed an error by acting too soon; its decision was reversed, and the costs were placed upon the railroad companies. Because an appeal was of right allowed to the Virginia court of appeals, this appeal should have been taken. And as this court was given power, by the constitution of the State, to revise the order of the commission or to prescribe a new rate, the legislative phase had not yet been completed; there-

fore, the United States circuit court should not have enjoined until this step had been taken. If the railroads, after an appeal to and decision from the court of appeals, still felt that the rate was confiscatory, then the court of appeals might be enjoined if it should attempt to enforce its judgment, since it too would have performed not a judicial, but first a legislative and then an administrative function.¹

So the railroad companies, as had been formerly agreed, again came before the commission. The commission, after a full hearing, ordered that the rate should be two and one half cents instead of two cents a mile for the more important roads; and the railroads put the rate into effect at once. One exception to this was the Richmond, Fredericksburg, and Potomac Railroad, which was given the two-cent rate from the date of the original order of the commission until 1911, when it was allowed to increase the rate to two and one half cents a mile on the ground that it was losing by its intrastate passenger traffic, though its total traffic yielded 9 per cent. dividends.

On the judicial side the court has maintained its prestige. It has had to give judicial interpretation to many charters. In fact, its control of railroads has led it into unexpected fields. For example, four towns in the southwestern part of the State passed ordinances prohibiting the shipment of whiskey into the towns by express companies. The express companies obeyed. The wholesale whiskey dealers in Roanoke appealed to the commission to force the express companies to accept their shipments. The commission assumed jurisdiction, and after a hearing decided that the four towns had exceeded their charter rights, and ordered the express companies to haul whiskey offered for shipment to these towns, provided the amount did not exceed one gallon, the amount allowed by the state law.

On the purely administrative side the commission has fully justified its creation. As a result of the new taxes imposed by the recent constitution and the efficiency of the

¹ *Prentis v. Atlantic Coast Line R. R. Co.*, 211 U. S. 210.

commission, the state revenue from railroads has increased fourfold. At the same time the corporations seem satisfied. They would rather deal with a judicial commission than with a political legislature. Their taxes may be increased, but their political expenses are lessened. They need not interest themselves in politics, since the General Assembly cannot grant any special charter privileges. The prescribing of a two-cent passenger rate was in no sense demagogic. Of the three commissioners who prescribed it one was a lawyer of high rank, one was a public-spirited millionaire, and the third, for the welfare of the commission, paid the annual salary of an extra clerk from his own salary.

In several instances, however, individual members have been open to criticism. In 1905 it developed, as a result of discord between two clerks of the commission, that a commissioner owned a one-hundred-dollar share in the Virginia Corporation Company and a clerk owned three one-hundred-dollar shares; and that the clerk furnished daily to this company a list of corporations applying for charters. A member of the commission is prohibited from owning any stock in a transportation or transmission corporation doing business in the State but is not prohibited from holding other stocks, so this act was not illegal; but a legislative investigation was made.

The Virginia Corporation Company was a Richmond company composed of a few parties who held in all twenty one-hundred-dollar shares of stock. The purpose of the company was to draw up charters where they were needed, and have the same granted by the corporation commission. The commissioner stated in his defence that the pressure of business upon the commission had made it advisable that such a company be created, which could assist the commission by presenting requests for charters in proper form, and he had taken one share of stock merely to assist in the creation of such a company. No unusual profit had been obtained, and the past record of the commissioner had been of the best. The majority report recommended that the

commissioner be asked to resign, though his act was without corrupt motive. The two houses of the General Assembly, however, by a large majority accepted the minority report which found him guilty of "a grave error of judgment and indiscretion," but did not ask him to resign.

Two years later the confirmation of the governor's appointee, Commissioner Rhea, was "held up" in the General Assembly by Republican members from the appointee's congressional district. A joint committee was appointed to investigate. The majority reported to exonerate him, but the investigation developed the fact that corrupt practices by his retainers had been perpetrated when the appointee was a candidate for Congress. The governor was censured by the press and the public for making the injudicious appointment of one who had played politics in the most hotly contested section of the State. While the investigation was being made, a bill to submit the question of popular election of the commissioners to the people passed the Senate with only two dissenting votes, but in the house it was defeated by a majority of two. Popular election of judges is most strongly condemned by students of government; therefore future governors should carefully avoid even the appearance of evil. The opportunity for graft is enormous in this commission; and a lack of confidence should be carefully guarded against. The dignity of the commission should be second only to that of the state court of appeals.

Bureau of Insurance.—The constitution of 1902 provided that a bureau of insurance, a bureau of banking, and other bureaus might be established within the department of the state corporation commission by the General Assembly.¹ In 1906 a bureau of insurance was established under the supervision and control of the corporation commission.² The commissioner of insurance is elected by the General Assembly for a term of four years. But when the first commissioner appeared before the corporation commission to

¹ Constitution, 1902, Art. XII, Sec. 155.

² Acts, 1906, c. 112.

qualify, he was refused on the ground that the corporation commission itself was, according to the constitution, the body to select the commissioner. The Virginia court of appeals, however, decided against the commission, and the commissioner of insurance was duly sworn in. He should be appointed by the commission since he is subordinate to it. He appoints his own deputy commissioner and other necessary assistants. The expenses of the bureau are paid by a tax on the premiums paid the companies by policy holders of the State; but this tax may not exceed one tenth of one per cent. of said premiums. The duties connected with the control of insurance companies, which had been performed by the auditor of public accounts, were turned over to this new bureau.

All licenses to foreign insurance, guaranty, trust, indemnity, fidelity, and security companies, and certificates of authority to domestic companies, must be granted by the corporation commission through the bureau of insurance. Whenever it is deemed necessary for the protection of policy holders, the corporation commission may have the commissioner of insurance make an examination of the condition of any company permitted to do insurance business in the State; and the company must give the commissioner free access to its books. If he reports unfavorably, the corporation commission may withdraw the license of such company after giving it a hearing. In all cases, however, the company has an appeal to the court of appeals.

The investigation of the cause of fires is an important function of this bureau. The head of the fire department in each city or town and the sheriff of each county must report all fires to this bureau; and for each report a fee of \$1 is paid. In an investigation the commissioner may compel the attendance of witnesses; and the hearings may be either public or private. The commissioner must receive an annual detailed report from each company, and must submit these reports to the corporation commission. Also, if complaint is made that excessive rates are being charged, he

must investigate, and report the results of such investigations to the General Assembly, with recommendations as to needful legislation. Every company is required to have an agent in Richmond, upon whom may be served all lawful processes; and a sum of not less than \$10,000 nor more than \$50,000 in bonds must be kept on deposit with the state treasurer.

Banking Division.—Previous to the creation of the corporation commission the state auditor would from time to time receive reports of banking institutions, and depositories for state funds were examined periodically by legislative committees. These reports were necessarily of a formal character. Since 1907 the corporation commission has received five annual statements from the state banking institutions at the same time as those made by the national banks to the comptroller of the currency are received. The reports from the two institutions are similar in character. If a report indicates anything wrong, an examination is made.

The commission also examines all state depositories at least once a year. "A bit of grim humor," somebody remarked. If the examination of the banks containing funds of the State be deemed expedient, why is it not equally expedient to examine other banks? Few individuals could do it even if permitted. How many individuals would know the market value of stocks if they should see them? However, the commission is required to examine any bank upon the request of stockholders owning one fifth of the capital stock.

In 1910 the corporation commission was given power to appoint a bank examiner, assistant examiners, a clerk, stenographer, and necessary assistants. Hence, at present, in addition to the five annual statements, at least one annual inspection is made of state banking institutions and of such national banks as are used as state depositories. Additional examinations are made upon the request of stockholders who own two fifths of the capital, or when the corporation commission think such a course advisable. The examination

is possibly more thorough than that made by a national bank examiner, since the national examiner is paid fees while the state examiner is paid an annual salary and cannot increase his remuneration by undue haste. If any improper conditions are discovered, the corporation commission notifies the officers and directors of the institution; and if the condition is not corrected within a reasonable time, not exceeding thirty days, the commission may apply for the appointment of a receiver. The banking institutions must publish in a local paper reports similar to those required to be published by national banks. The expenses of this banking branch of the corporation commission are sustained by fees for the examination of banking institutions. These fees vary from \$35 to \$155 according to the amount of resources of the banks examined.

CHAPTER VII.

FINANCES.

Central Officers.—There are three state officers who handle the public revenues: the treasurer, the auditor of public accounts, and the second auditor. The treasurer is simply the custodian. The auditor of public accounts receives all usual revenues, and turns them over to the treasurer for safe keeping; and all usual state disbursements are made by a warrant drawn by the auditor upon the treasurer. These two officers come down from Revolutionary times; but the office of a second auditor dates from 1823. It was created to relieve the auditor of public accounts of the Internal Improvements Fund, which was accumulating as a result of the policy of state aid to internal improvements. The Literary Fund was likewise transferred to the second auditor. When a sinking fund was created, this was naturally placed with him. The Miller Fund, a fund of more than a million dollars for the support of the Miller School, and the Retired Teachers' Fund are likewise handled in this branch. The second auditor's duties in regard to these special funds is the same as those of the auditor in regard to all other usual revenues.

There seems to be no justification for the present division of functions between these two offices. The recent addition of the Retired Teachers' Fund and the recent policy of making small loans from the Literary Fund has given the second auditor enough business; but assistants to the first auditor¹ could perform the duties. A suggestion in the governor's message of 1906² seems most pertinent: "The first auditor should settle, collect, and deposit all moneys

¹ In this paper "first auditor" or simply "auditor" means auditor of public accounts.

² Senate Journal, 1906.

coming to the State, but he should be wholly unauthorized to issue his warrant upon the treasurer for any sum whatsoever. The latter should be performed by the second auditor, who should make no collections or deposits, and his warrants alone should be recognized by the treasurer. . . . We cannot be satisfied with the present system, for under it we have lost through the first auditor's office, in the past forty years, more than \$158,000, and we should have lost much more but for the honesty of our officers."¹

The suggestion by the governor resulted in the creation of a legislative committee of five members to make an investigation of the offices at Richmond having charge of the collection and disbursement of the State's revenues. So far as the committee knew, such an examination had never before been made.² The governor of the State in his message of 1876-1877 called the auditor's methods "antiquated, uneconomic, and subject to errors," but for thirty years no change worthy of mention was effected. The legislative committee appointed in 1906 made a report in 1908 which shows that a careful investigation had been carried on.

This report³ shows that in the absence of a supervising power there has grown up in the State's offices an entire lack of uniformity in accounting. "Each department keeps its accounts independently of every other department. There are few checks and balances between the departments handling the funds. Discrepancies in accounts between offices handling in succession the same funds have been discovered, which existed for years and which might have been discovered and corrected immediately had any system of comparing accounts prevailed.

"There are no checks upon many of the sources of reve-

¹ The governor here refers to the Smith defalcation of about \$158,000 in 1885 and the Shepherd defalcation of \$37,914 in the nineties. Both defaulters were sent to the penitentiary, but clerks were then not required to give bond, and the auditor was not held responsible. Clerks in the department now give bond.

² There had been previous auditing committees, but no thorough examinations had been made.

³ House Journal, 1908, Doc. No. VI.

nue and no auditing which compels the payment into the treasury of funds properly due the State. The bookkeeping employed in many departments is but little more than mere memoranda, and no attempt is made at double entry bookkeeping, no balance sheets can be made at stated periods, and few of the usual methods used to detect the errors in entries are used."

The committee made no complaint as to the condition of the treasurer's office. Of the auditor's office the committee said: "While we find nothing in the records of this office that lead us to believe that its affairs were not honestly administered or that the State has suffered any loss since the Shepherd defalcation, at the same time we find it proper to say, that if errors exist, they would, under the system of account employed, be difficult to discover." The second auditor lacked a proper system, but accepted the suggestions of the accountants.

The secretary of the Commonwealth kept his records with care and neatness, but accounts dealing with financial matters were crudely kept. The penitentiary, the state farm, and the Laurel Reform School had adopted a proper system of bookkeeping. The corporation commission's system of accounting needed to be and was being improved. The system of bookkeeping in the agricultural department did not show transactions properly. Annual reports could not be verified; however, from the books, there seemed to be no shortages.¹ The board of agriculture was equally responsible with the commissioner. The committee recommended that funds derived from the sale of tags should be handled directly by the auditor; that the department of agriculture should have nothing to do with them.

In concluding the committee say: "We are convinced that this system should be one by which the accounts of the

¹ The commissioner of agriculture was in Europe on official business at the time. Being a practical farmer, he knew little about bookkeeping, but states that had he been in his office he could have shown proper records of transactions. The system recommended by the accountant has been adopted, and every transaction is now carefully shown.

various offices come into and correlate with the books in the first auditor's office. We are of the opinion that the introduction and operation of this system cannot be accomplished by the mere enactment of law, but would have to be brought about by the creation of a bureau of audit, which should be under the charge of a competent expert accountant, assisted by such traveling auditors as may be found necessary. He should be given full power to install such a system of accounting in all of the offices of the State, including clerks and treasurers of the cities and counties, and, furthermore, he should be empowered to compel all office-holders under his charge to keep accounts in such manner and on such forms, and to make such reports as he may deem necessary. Annually, or oftener, the accountant should audit all the accounts under his charge." This committee thinks that the second auditor's office should be abolished, and the duties should be performed by the first auditor.

Since the above report was made an auditing committee, composed of two members appointed by the president of the Senate and three members appointed by the speaker of the House, has annually been allowed \$2000 with which to employ an accountant, after allowing themselves \$5 per diem plus expenses.¹ This special accountant examines annually the books and accounts of the first auditor, state treasurer, secretary of the Commonwealth, and other executive officers at the seat of government whose duties pertain to auditing or accounting state revenues. The accountant's report is made to the governor and is published in two newspapers. This special accountant has brought about an improvement in the system of accounting at the seat of government, but much remains to be done; and local offices, such as county treasuries, have not been touched.

Local Officers.—The State's revenue from such sources as the property tax, income tax, inheritance tax, and licenses is collected for the state auditor by the county treasurers,

¹ Acts, 1906, c. 309.

after it has been assessed by commissioners of the revenue¹ and land assessors. County treasurers since 1869 have been elected by all the voters of the county for a term of four years. One or more commissioners of the revenue are elected in every magisterial district (township) or city for a term of four years. The term of office has been as short as one year; and from 1903 until 1911 the appointment was made by the circuit judge.² The constitution of 1902 provided for appointment instead of election; but many felt that the judges were not acquainted with suitable men, and were naturally influenced by the Democratic leaders at the county seats; especially was this felt in Republican counties. Hence in 1910 the constitution was amended, and the commissioner is again elected. During the whole period, one land assessor for each magisterial district has been appointed every fifth year, with one exception, by the judge. The one exception was in 1885 when, for political reasons, the Readjuster party had the land assessors appointed by a county or city board, composed of the local judge, commonwealth-attorney, and clerk of the county or city court. Until the county judge was superseded by the circuit judge, the former appointed him; since then, the circuit judge has had that duty.

Neither election by the people nor appointment by the judges has resulted in efficient commissioners of the revenue and land assessors; nor will it ever do so. No approach to fairness and efficiency is in sight unless a state tax commission is created. This commission should be given authority to appoint and dismiss one or more tax commissioners, residents or non-residents, for each county and city,—semi-

¹ The constitution of 1869 used the terms "city commissioners of the revenue" and "county assessors." Their duties were identical. "Commissioner of the revenue" had been the well-established name in Virginia, hence after about four years the term "assessor" was by habit dropped from official documents, except for the district officer known as the "land assessor."

² The judge is elected every eight years by the joint vote of the General Assembly, hence he is somewhat dependent upon county patronage. Another method which seems preferable to this method of electing the judge would be to have the governor appoint for long terms (for instance, eight years), with a veto power in the hands of the State Bar Association.

experts, who will devote their whole time to assessing and to contriving means for fair assessment. The supervisor elected by each magisterial district should give the county tax commissioner local advice when the latter is assessing within the supervisor's district. This plan need cost no more than the present system; yet each tax commissioner would receive a good salary because he would devote his whole time to the work; and by becoming expert he would do the work in much less time than the present officers. Should this change seem too radical,¹ the answer may be made that it is the lack of this "radical" efficiency that is causing state functions to slip into the control of the Federal Government. However, if this is too great a change, the creation of a state tax commission with power merely to remove locally elected commissioners of the revenue would be some improvement.

A temporary tax commission is now preparing a number of reports on the Virginia tax system. These reports, the first serious extensive reports on taxation ever made in Virginia, will be presented to the General Assembly of 1912. It is hoped that a permanent commission will be created by this General Assembly.

Property Tax.—During the period from 1869 to the present day real estate has been assessed every five years by the "land assessors," but personalty and new buildings have been assessed annually by commissioners of the revenue. The state laws have provided for the assessment of realty and personalty at their market value, and the constitution of 1902 provides that "all assessments of real estate and tangible personal property shall be at their fair market value."

The Richmond Whig Daily for January 23, 1872, seriously alleged that the property of the State was assessed at three or four times its market value; and the governor in his message of the same year stated that it was assessed up to its full market value. This, however, was due to the fact

¹ It would require an amendment to the constitution.

that so soon after the war there was scarcely any market for the property. Four years later the following governor pointed out "gross inequalities" and "premiums on dishonesty and oppression of the poor." "Tax-payers practically assess themselves." Like several other later governors, he recommended a board of equalization. The following table shows to what extent personal property has been assessed at its "fair market value":

PERSONAL PROPERTY.

Year.	U. S. Census valuation.	Assessed valuation.	Percentage.
1880	\$168,399,000	\$ 70,391,018	41.7
1890	209,847,256	90,110,467	42.8
1900	304,583,410	107,279,401	35.2
1904	361,114,240	122,673,713	33.9

This disparity between the assessed valuation in different counties is extreme. In 1906 the average assessed value of horses in Halifax county was \$42 per head; in Pittsylvania, an adjoining county, \$21; in Henrico, \$91; in Floyd, \$17. The city of Portsmouth in 1910 returned no clocks, watches, nor musical instruments. The following table gives some average assessed values in counties and cities for 1910:

	State average.	Highest county or city average.	Lowest county or city average.	Loudoun county average.	Grayson county average.
Horses.....	\$60.20	\$101.38, Richmond city.	\$19.71, Grayson.	\$84.99	\$19.71
Cattle.....	15.56	28.21, Loudoun county.	5.14, Grayson.	28.21	5.14
Sheep.....	3.00	7.60, Alexandria county.	1.00, Buchanan.	4.92	1.12
Hogs.....	3.37	5.97, Richmond county.	1.09, Buchanan.	5.34	1.16
Watches...	8.38	27.93, Norfolk county.	1.00, Floyd.	7.24	1.51

Note: For these figures the writer is indebted to Mr. D. S. Freeman, Secretary of the State Tax Commission.

There are thirty-five counties which receive from the State more money for schools, criminal charges, commis-

sions to commissioners of the revenue, and returned capita-
tion taxes than they pay in for all purposes.¹ These
"charity counties" are fairly well distributed, though they
are most numerous in the extreme southwest; and if a line
is drawn from Washington, D. C., to Lynchburg and thence
due west, Amherst and Greene are the only two "charity
counties" of the thirty counties contained in this north-
western angle. There are no "charity cities."

The disparity of assessment of two pieces of property
within the same county is perhaps as extreme as that be-
tween different counties. While writing this section a daily
paper reported the sale of 400 acres of orchard land for
\$150,000 in one of the counties in the northern part of the
State. Correspondence with the county treasurer disclosed
that the farm of 1200 acres was assessed in 1910 at \$30,600.
Eight hundred acres remain in the farm which are worth
fully as much as the 400 acres that were sold. In other
words, a \$300,000 farm was assessed for \$30,600, or 10
per cent. of its market value, in a county whose average
assessed value on realty is 38 per cent. of its market value.
That is, since 38 per cent. is the average assessment and
this valuable property was assessed for 10 per cent. of its
value, owners of small pieces of land or humble dwellings
must have been assessed at 60 or 70 per cent. of the actual
market value. Hence the poor property owner pays in pro-
portion to his ability six or seven times as much tax as the
wealthy property owner. Nor is this exceptional. Large
blue grass farms in southwest Virginia worth from \$50 to
\$100 an acre are assessed at from \$5 to \$10 an acre.

A board of equalization could to some extent remedy the
inequalities between counties. By requiring the true con-
sideration involved in the transfer of realty to be stated in
each deed recorded, it could be determined approximately
what percentage of the market value of realty is the assessed
value. For example, if the assessed valuation in Accomac
County is 50 per cent. of its market value, all realty assess-

¹ Auditor's Report, 1910, Table No. 36.

ments should be multiplied by two; if in York County the assessed value is 40 per cent. of its market value, all assessments should be multiplied by two and one half. Then after all assessments have been raised to market value the state tax rate could be reduced to 15 or 20 cents on the hundred dollars instead of 35, its present rate.¹ But an equalization thus carried out does not touch the problem of taxing personal property, income, or inheritance; and it does not touch the problem as to inequality between individuals within the same county. Anything short of a permanent tax commission cannot bring very extensive relief.

Income Tax.—During colonial days the bulk of direct taxes was paid in the form of a poll-tax; during the nineteenth century the property tax was the main dependence, though as the State developed industries other than agriculture the license tax became a very important supplement. The property tax was a great improvement over the poll-tax, which had become grossly unfair. Today we find that the property tax no longer corresponds to ability to pay unless it is supplemented by some other taxes; and no tax would be so just as the income tax if it could be properly assessed.

If we except a faculty tax, assessed upon attorneys, merchants, physicians, surgeons, and apothecaries from 1786 to 1790,² Virginia's taxation of income began in 1843.³ This was a tax of one per cent. "on incomes" of employees in excess of \$400, and 2½ per cent. on all interest. The constitution of 1850 practically restricted the income tax to incomes from salaries. In 1853 a graduated tax ranging from one fourth of one per cent. on incomes of \$250 to one per cent. on incomes of \$1000 or more was enacted; but laborers in mechanic arts, trade, handicraft, or manufacture and ministers of the gospel were excluded from its operation.⁴ These rates were soon doubled.

¹ The state rate in 1860 was 40 cents on the hundred dollars. After the War it was 50 cents, until 1882 when it was reduced to 40 cents. In 1903 it was again reduced to 35 cents.

² Henning's Statutes, XII, p. 283; XIII, p. 114.

³ Acts, 1842-43, p. 6-8.

⁴ In 1858 revenue from this income tax was \$104,000.

In 1862 a heavy general income tax was enacted from which a substantial war revenue was derived. The constitution of 1869 allowed a tax "on incomes in excess of \$600." In 1870 a general income tax of $2\frac{1}{2}$ per cent. on incomes in excess of \$1500 was imposed.¹ Very little revenue resulted in 1870. In 1871 it was reduced to $1\frac{1}{2}$ per cent. on incomes in excess of \$1000.² In 1874 it was further reduced to one per cent. on incomes in excess of \$600;³ and it remained at this figure until 1908. The law was reenacted in 1898⁴ with no changes in the rate or the amount exempted. It was intended to make the brief provisions more explicit; but the law was drawn with little care. For example, who knows what the following words mean: "amount of all premiums on gold, silver or coupons"? Since 1908⁵ only the aggregate amount of income in excess of \$1000 has been taxed.

The tax has always been assessed in the same manner as the personal property tax, that is, each person assessed states whether or not his net income exceeds \$1000. During the past decade it has not been assessed at all in from 25 to 30 per cent. of the counties. Until the first decade of the twentieth century the total revenue from the income tax had not exceeded \$50,000 since the Civil War. It has now increased to about \$100,000.⁶

¹ Acts, 1869-70, c. 189.

² Acts, 1870-71, c. 72.

³ Acts, 1874, c. 24.

⁴ Acts, 1897-98, c. 496.

⁵ Acts, 1908, c. 10.

⁶ The auditor's annual reports give the following figures:

Year.	Revenue.
1901.....	\$ 46,023
1902.....	59,253
1903.....	60,357
1904.....	64,781
1905.....	70,954
1906.....	77,414
1907.....	94,291
1908.....	122,058
1909.....	102,810
1910.....	106,909
1911.....	129,429

Virginia is the only American Commonwealth that derives any considerable revenue from the income tax. All but four of the States that have tried it have abandoned it; and Professor Seligman in his recent excellent work on *The Income Tax*¹ is convinced that an income tax cannot be satisfactorily administered except by the Federal Government. Unless there is created a permanent tax commission of experts, with power to appoint or at least to dismiss inefficient tax assessors, any tax reform is doomed. But if this is done and the commission is allowed to draft a clear detailed scientific statute, the revenue can be much increased with greater justice to the honest citizens who now declare their incomes. It is extremely doubtful whether 5 per cent. of the commissioners of the revenue understand the present law, and not a few citizens with a net income in excess of \$1000 do not know that there is an income tax. The only way in which an honest farmer can be made to realize that his net income exceeds \$1000 a year is to furnish him with a printed list of all of his probable sources of income, and require that he specify his various items. Even then it is doubtful whether this plan would justify the cost, since comparatively few Virginia farmers exceed \$1000 net profit if wages are allowed to members of their families.

The city of Staunton imposes an income tax, though it has no specific permission to do so. It bases its right on a general grant of taxing power in its charter.

Railroad Tax.—During the thirties, especially in 1836, the year preceding the financial panic, numerous railroads were chartered. About half of these roads were exempted from any taxes whatsoever. Until 1856 the only tax upon the roads not exempted from taxation was the state general property tax. Beginning with that year, the General Assembly provided for a new tax to take the place of the general property tax for railroads. "Every railroad not exempted by its charter from taxation" was required to report to the state auditor "the aggregate number of miles

¹ Part II, c. II.

traveled by passengers," and at the same time to pay a "tax of one mill for every mile of transportation" of each passenger. Every railroad company paying such a tax was not assessed with any tax upon its lands, buildings, or equipments; but if it failed to pay this tax in any six months, then its lands, buildings, and equipments were immediately assessed, under the direction of the auditor of public accounts, at the full cost of construction and outfit, and a tax was at once levied thereon, as on other real estate, to be collected by the sheriff in such county or town as the auditor should direct. The only guarantee of a correct statement on the part of the railroad companies was that the statement should be verified by the oaths of the president and superintendent of transportation.¹

In 1860 a tax of one half of one per cent. of the gross receipts for the transportation of freight was imposed in addition to the passenger tax of 1856, and upon the same conditions.² This act, however, in dealing with a new difficulty, added: "Such company, whose road . . . is only in part within the Commonwealth, shall report as aforesaid such portion only of such amount received for the transportation of freight, as the part of the said road . . . , which is within this Commonwealth, bears to the whole of such road." During the war period the tax did not change in kind, but the rates were increased; and railroad charter tax exemptions were annulled for the war period, the same taxes being placed upon all the roads of the State.³

The constitution of 1869 provided, in substance, that all taxation should be equal, uniform, and ad valorem, except as to incomes, licenses, and capitation. Hence the gross receipt tax on railroads had to be discontinued. In 1872, in addition to the 5 mill state tax on tangible property, a tax at the same rate was imposed upon railroad bonded indebtedness. All bonds of the railroads were to be taxed one half of one

¹ Acts, 1855-56, c. 9, sec. 35.

² Acts, 1859-60, c. 3, secs. 46, 47.

³ Acts, 1862, c. 1. Whether this act was enforced the writer could not learn.

per cent. of their market value;¹ and the railroad company was to deduct this tax from the bondholders' annual interest, whether the bondholders were residents or non-residents of the State. So much of this act as applied to non-residents was declared void.² The greater part of the bonds were held by non-residents, hence the tax was changed to an income tax of one per cent. of the net receipts. The income was ascertained "by deducting the cost of operation, repairs, and interest on indebtedness, from gross receipts." Except that stocks and bonds in the hands of their owners were taxed as property when found, this income tax and the general property tax have been the only taxes imposed upon railroads by the State until the constitution of 1902 made radical changes.

Counties³ were not allowed to tax the property of railroads until 1880.⁴ After that date the supervisors of the county were furnished by the state auditor with the valuation upon which to assess. The railroads estimated, for the state auditor, the value of property located in each county and each township thereof. The board of public works would accept or alter this estimate; and upon the revised valuation thus made both state and local taxes were assessed, the county supervisors being furnished the estimate at first by the auditor, later by the secretary of the board of public works. The estimate for the roadbed was a definite amount for each mile. Though the roadbed may have cost twice as much per mile in one county as another, the mile unit rule was followed. Depots, terminals, rolling stock, etc., were included in this unit assessment until 1892,⁵ when

¹ Bonds were chosen instead of stocks because all the roads were heavily bonded and stocks were paying no dividends.

² A creditor who is not within the jurisdiction cannot be taxed, and the debts cannot be taxed in the debtor's hands because of a fiction of the law which treats them as being for this purpose the property of the debtors.

³ Cities derive their power to tax through specific grants in their charters; and for some years the cities had been taxing the property of railroads, including all rolling stock.

⁴ Acts, 1879-80, c. 106.

⁵ Acts, 1891-92, c. 254.

county or corporation commissioners of the revenue were allowed to assess railroad property other than the roadbed; but the rolling stock is taxed in that city and county where it remains when not in use.

As a result of the constitution of 1902 railroad taxation has been much modified. The duties of assessment formerly carried out by the board of public works are now performed by the state corporation commission. The railroad companies report to this commission all property, tangible and intangible, in each school district of each county of the State and in each city of the State. The state corporation commission assesses all such property and reports the same to the state auditor of public accounts for collection, and also to the presidents of the railroad companies. The commission at the same time reports the assessments for the counties and cities to the county supervisors or city council, who impose the local rates upon the same amount of railroad assessment as the State has levied its rates upon.

In addition to the state tax on tangible property,¹ an additional franchise tax "equal to one per cent. upon the gross transportation receipts" is imposed, but shares of stock in the hands of the individual owners are exempt from taxation. The amount of gross receipts for interstate railroads is determined "by ascertaining the average gross transportation receipts per mile over its whole extent within and without this State, and multiplying the result by the number of miles operated within this State; provided, that from the sum so ascertained there may be deducted a reasonable sum because of any excess of value of the terminal facilities or advantages situated in this State."²

The maximum state tax received from railroads previous to the Constitutional Convention of 1902 was \$264,594. In 1910, including electric lines, it was \$961,286. In 1904 the state corporation commission assessed the tangible value of railroads in Virginia at \$63,269,632. Bulletin 23 of the Census Bureau estimated the commercial value of railroads

¹ Now 35 cents on the hundred dollars.

² Virginia Code, 1904, p. 2206.

operating property in the State for the same year at \$211,315,000, or an average of \$53,700 per mile. The General Assembly of 1906 asked for an explanation. The commission's reply¹ gives a clear idea of the basis upon which railroad property is assessed.

The commission says, in substance, that the franchise tax, with the property tax, is in lieu of all other taxes or license charges whatsoever upon the franchises of railway corporations. The commercial value of \$211,315,000 represents the net earnings capitalized,² and much of the earnings result from the franchise³ which has a gross receipt tax in lieu of other taxes. Hence the franchise tax for the year, one per cent. of the gross receipts, or \$354,173, represents a tax of 35 cents on \$100 (state rate) for \$101,192,374 worth of property. Add to this the property assessment of \$63,269,623, and the roads have paid state taxes on \$164,461,997 worth of property, which is 78 per cent. of the government commercial valuation of \$211,315,000. Personal property in the State is assessed at only 34 per cent. of the value assigned to it by the United States estimate for 1904, hence the railroads are taxed more than twice as heavily as personal property. The same condition exists in regard to realty.

But it must not be forgotten that the franchise value is to a considerable extent the gift of the State, and therefore a part of the tax is in the nature of rent. Also, as the tax on railroads is in the nature of an indirect tax, the amount may vary considerably without affecting the earnings. It is one of the fixed charges, and the State is prohibited by the Federal courts from prescribing rates which reduce dividends below a reasonable return. The only reasons why all

¹ Senate Journal, 1906, Doc. No. 4.

² The average net earnings for a period of five years are capitalized at a rate obtained by dividing the annual net income by the market price of stocks and bonds.

³ The commission define franchise to mean the value of the charter, priority in possession of the location, good-will, present contracts, collection of stockholders for the particular business, or the company in operation.

state revenue might not be raised through the railroads is the fact that higher freight and passenger rates might impede commerce, and that the incidence of the tax would fall upon the consumer.

Railroad Exemption from Taxes.—All railroads that were granted charters exempting them from taxation forfeited these exemptions when they consolidated into trunk lines, except the Richmond, Fredericksburg, and Potomac, which has never consolidated. In its charter of 1834 is the following provision: "All machines, wagons, vehicles, and carriages, purchased, as aforesaid, with the funds of the company, and all their works constructed under the authority of this act, and all profits which shall accrue from the same, shall be vested in the respective share-holders of the company forever, in proportion to their respective shares, and the same shall be deemed personal estate, and shall be exempt from any public charge or tax whatsoever."

The constitution of 1902 provided that each "railway . . . , including also any such as is exempt from taxation as to its work, visible property, or profits, shall also pay an annual state franchise tax equal to one per cent. upon the gross receipts." It is maintained by the State that a franchise is a species of property different from the tangible property defined in the above exemption clause, hence that neither its franchise nor the profits which shall accrue from the same are exempt from taxation. The railroad claimed that the law impaired the obligation of a contract.

This franchise tax has been annually assessed, but never paid. In 1907 the tax was tested in the circuit court for the city of Richmond. But the State claimed an additional ground for taxing all the property of the railroad. Section 158 of the present constitution of Virginia provides that "Every corporation heretofore chartered in this State, which shall hereafter accept, or effect, any amendment or extension of its charter, shall be exclusively presumed to have thereby surrendered every exemption from taxation."

On April 2, 1902, the General Assembly, having been

prohibited from granting any charters by the constitution of the same year, passed an act allowing certain privileges to railroads without a special permit. Among these privileges is one allowing railroads to lay double tracks; another allows them to change the roadbed within certain limits. The Richmond, Fredericksburg, and Potomac shortly thereafter built a second track for its entire length, and moved the roadbed in order to straighten curves to the extent of twenty-six miles. The Virginia court of appeals in 1910 rendered a decision in which they passed over the question as to whether the road is exempt from a franchise tax, but decided that by accepting the last named privilege the road had impliedly amended its charter, and should forfeit all exemptions, both state and local. The case has been appealed to the United States Supreme Court, but the decision will likely be upheld; in this event each railroad of the State will stand upon a tax equality with every other.

Banks.—Since 1871 the capital of banks has not been taxed as such, but the stockholders have been taxed upon the market value of their shares of stock at the same rate as other moneyed capital; and this tax, always having been assessed by the local commissioner of the revenue, has been paid by the bank directly to the state auditor of public accounts. In 1874, from a United States Supreme Court decision in regard to the taxation of bonds held by non-residents of the State, it was believed that the taxation of bank stock of non-residents was unconstitutional. From that date until 1884 non-residents were therefore not taxed; but as the court made a distinction between the taxation of stocks and of bonds, bank stock of both residents and non-residents has since then been taxed.

From 1874 to 1884 the total assessed value of realty owned by the bank was deducted from the total market value of the bank stock, and the residue of bank stock was assessed. From 1884 until 1908 no deduction was made; but now the assessed value of real estate owned by the bank may be deducted from the total value of the shares of stock;

this value is determined by adding together capital, surplus, and undivided profits. But if the bank, as a principal debtor, owes money which is a legitimate offset to the above, it may deduct the amount of the debt to the extent of ten per cent. of the total actual value of the shares of stock as ascertained above.

Since 1874 counties and cities have been specifically granted the right to tax bank stocks at the bank, like the State; and in 1898 "towns" were likewise granted permission. The stock of both residents and non-residents of the State has been taxed by the localities where the bank is situated; but since 1890, if a commissioner of the revenue in the county or city of an owner of stock, living within the State, certifies that the tax has there been paid, the commissioner in the county or city where the bank is situated must deduct the same. Since 1896 unpaid taxes on bank stock have been a lien upon the stock. The county or city treasurer can sell stock and give a bill of sale which, when presented to the bank, will cause the stock to be transferred.¹ The banks complain that while personal property in general is found and assessed only to the extent of about thirty-four per cent. of its market value, they are assessed upon the full fair value of their stock.

*Capitation Tax.*²—Just before the Civil War the capitation tax was 80 cents on white males, and for every slave over twelve years of age there was a property tax equal to the tax on \$300 worth of property. The state rate was 40 cents on the hundred, and therefore for every slave over twelve years of age a tax of \$1.20 was paid. The constitution of 1869 imposed a \$1 capitation tax on all males over twenty-one years of age. This continued until the constitution of 1902. Since then the state tax of \$1 has remained, but 50 cents additional is paid into the state treasury and re-

¹For the above section the following statutes have been used: Acts, 1870-71, c. 201; 1874, c. 242; 1883-84, c. 458, sec. 17; 1889-90, c. 141; 1895-96, c. 169; 1897-98, c. 453; 1902-3-4, c. 457; 1908, c. 213; Code 1887, sec. 833.

²Also see "Electorate."

turned to the county or city. This represents a compromise between those members of the convention who favored a \$1 tax and those who favored a \$2 tax.

Since 1904 Grayson and Patrick counties have been permitted to impose an additional capitation tax of \$1.¹ This seems to be unwise for two reasons. First, there is little justification for the capitation tax when imposed for revenue purposes alone. Second, since the counties, as a result of this source of income, will need a lower property tax for county purposes, the assessed valuation can be made low. As the state taxes are paid upon the same valuations as the county, the State is the loser. As a matter of fact, the assessed values of personalty in Grayson County are the lowest of any county in the State. Its assessed values of realty are among the lowest. The assessed values in Patrick County are likewise among the very lowest. The reason why assessed valuations in cities are higher than elsewhere is the necessity of providing more revenue for the many public services.

From 1872 until 1877 the payment of the capitation tax by a father was a prerequisite for the sending of his children to the public free schools.² From 1877 until 1882 it was a prerequisite to voting, as it has also been since January 1, 1904. In 1896 it was made a lien on real property; but since 1903 real estate may not be sold to satisfy the lien until the taxes have become three years overdue. The only provision that has had any effect upon the payment of capitation taxes is that making it a prerequisite to voting. Making the payment a prerequisite to sending children to the public schools did not bring financial results; it was not enforced. The law of 1896 making the tax a lien upon realty had no effect because those owning realty had always, with few exceptions, paid the tax.

From 1896 until 1903 the state revenues from capitation taxes increased less than 5 per cent. The tax was made a

¹ Acts, 1904, c. 192.

² This was aimed at the negro.

prerequisite to voting in 1903, and notwithstanding the fact that one third of the electorate was disfranchised and that 50 cents was added for the county, the state revenue from this source increased more than 10 per cent. by 1910, when the State received \$284,578.¹

Liquor Tax.—In the year 1870 there was imposed on ordinaries, that is, bar-rooms, a specific state tax of \$50 and an additional tax ranging from \$5 to \$100 in proportion to the amount of sales.² The amount of sales was estimated by the sales of the previous year; but if the concern was new, it had to report quarterly to the commissioner the revenue for the first year. In 1877 the Moffatt Law retained the specific tax, which had been increased to \$100 in towns of more than two thousand population, but in addition measured the sales by the glass. The tax on alcoholic liquors or wine was 2½ cents a half pint or fraction thereof, on malt liquors, ½ cent. Every bar had to install two Moffatt Registers, one for spirituous liquors and one for malt liquors. These registers were supplied by the state auditor for \$10, but were delivered by the local commissioner of the revenue who collected this tax monthly. When the registration sales amounted to one half of the specific license, one half of the latter was returned. There were other details which need not be mentioned. The framers of the law expected enormous revenue from this source. The machine was placed in a conspicuous place where the registration could be seen every time the crank was turned and the bell rang. But the patriotism of the bartenders and drinking public did not come up to the expectation of the framers of the law. Somehow the bell would not ring; and when it did ring, too often it was the bell of the beer, ½ cent registration, when it should have been the whiskey, 2½ cent registration. No detectives were employed to enforce the law. A large part of those drinking at the bars were negroes who could not read, and did not know which

¹ In addition to this, \$142,289 was collected for the counties.

² Acts, 1869-70, c. 174, 266.

was the whiskey and which was the beer register; and the whites who frequented the saloons were not interested in enforcing the law.

In 1880 the Moffatt Law was repealed, and in its place was imposed a specific tax of \$62.50 in towns of less than two thousand inhabitants and of \$125 in others, plus 15 per cent. of the rental value of the rooms in which the bar was conducted. In 1904 the specific tax was placed at \$175 in towns under one thousand inhabitants, \$350 in others; and there was no supplemental state tax. Since 1910 a specific tax of \$550 has been paid regardless of the size of the town; the tax is \$1000 if the retailer ships bottles or jugs. There is also a tax of \$500 on sample liquor merchants who may sell only to parties having licenses in wet territory. The salesman of a firm holding a wholesale license (\$1250) need not pay this tax.

The specific tax without any supplement is the easiest to administer, and it discourages small saloons in residential sections, which are the most objectionable saloons. The high license cannot be considered a tax, but a fine. The amount is not based on principles of equity, but of tolerance. However, because nine tenths of the territory, containing about three fourths of the population, is "dry," the six hundred and eighty saloons now in the State will bear heavy local taxes because they are to some extent distributing points; and as long as the State tolerates these saloons it should derive a license equal to the local license, since the cost of crime, insanity, and to some extent poverty resulting from drink is borne by the State.

Manufacturers have always paid in some proportion to the amount manufactured. Eating houses selling intoxicating drinks have been treated much like ordinary bars. Since 1882 clubs have ordinarily been treated like other dealers. Druggists did not need licenses to fill prescriptions until 1880; since that date they have not been allowed to sell without licenses, except in medical mixtures.

Virginia Debt.—Between 1820 and 1861 Virginia con-

tracted a debt amounting to \$33,000,000,¹ two thirds of which was contracted after 1852. This debt was incurred for such works of public improvement as canals, turnpikes, bridges, and railroads; but about two thirds of it was used for the encouragement of railroads.² Until the Civil War, interest was punctually paid; and in 1859 the assets of the State were reported at \$35,000,000,³ of which \$10,000,000⁴ was productive, yielding \$600,000⁵ in dividends.⁶ During the war the principal remained the same,⁷ but no interest was paid. By an act of 1866⁸ the bondholders were allowed to fund the accumulated interest, and during the following three years the State paid a small amount of interest. On July 1, 1870, the total debt, including compound interest, was \$47,000,000.⁹

West Virginia had been separated from the Commonwealth of Virginia in 1863, and was admitted as a new State under a constitution which declared that "an equitable proportion of the public debt of the Commonwealth of Virginia prior to the first day of January, 1861, shall be assumed by this State."¹⁰ Between the close of the war and 1870 all attempts made by the authorities of the two States to ascertain their respective portions of the debt proved ineffectual. In February of 1870, under the governorship of G. C. Walker, a committee of three was appointed to confer with a similar committee which he requested Governor J. J. Jacob of West Virginia to appoint.¹¹ By December of the same year Governor Walker had received no reply from the gov-

¹ The exact amount was \$33,080,509, on January 1, 1861.

² See Board of Public Works above; also see Tenth U. S. Census, Vol. VII, p. 555, for an itemized statement of the expenditures.

³ The exact amount was \$35,357,469.

⁴ The exact amount was \$10,057,584.

⁵ The exact amount was \$631,775.

⁶ Senate Journal and Documents, 1859-60, No. 33, p. 10.

⁷ The Confederate States were reconstructed on condition that all war debt be repudiated.

⁸ March 2.

⁹ The exact amount was \$47,090,867; though \$1,610,324 received from the sale of the state stock in the Richmond and Danville and Richmond and Petersburg Railroads was in a sinking fund.

¹⁰ Constitution of West Virginia, Art. VIII, sec. 8.

¹¹ Acts, 1869-70, c. 6.

error of West Virginia. Moreover, he observed the extreme divergence between what the people of West Virginia considered her equitable portion of the debt and what the people of Virginia considered it. Hence, Governor Walker recommended to the General Assembly of Virginia that she propose to West Virginia a settlement of the debt by arbitration.¹ The General Assembly agreed to this, and the governor tendered to the State of West Virginia a proposal of "an arbitration of all matters touching a full and fair apportionment between said states of the said public debt." Virginia was to appoint two members of the proposed board of arbitration, not citizens of Virginia; West Virginia two, not citizens of West Virginia; and the four were to appoint a fifth if they saw fit. The decision of the board was to be binding on both States. West Virginia declined.

The next year (1871) Virginia proceeded to refund her debt.² She claimed that the equitable share for West Virginia was one third,³ and proceeded to refund two thirds of the debt into 6 per cent. coupon or registered bonds. For West Virginia's one third of the debt the following certificate was given the holder of the old bond: "This certifies that \$. is due the Bearer, being one third of an old bond which has been surrendered. Payment of which one third will be provided for in accordance with a settlement to be hereafter had with West Virginia. And Virginia holds said bonds, so far as unfunded, in trust for the holder of this certificate."

Virginia agreed to pay about \$1,800,000 annual interest and to receive the interest coupons "for all taxes, debts, dues, and demands due the State." The assets of the State

¹ In the meantime the governor of West Virginia had appointed three commissioners, but their instructions were so unreasonable that the governor was sure that nothing could be accomplished. The three West Virginia commissioners proceeded, however, and reported to their legislature that West Virginia's equitable share according to the "Wheeling Ordinance" was less than \$1,000,000.

² Acts, 1870-71, c. 282.

³ Because one third of the territory and one third of the free population had been severed.

were producing practically no dividends.¹ The preceding year the total revenue of the State was \$1,500,000;² but the governor, by juggling with figures representing unreasonable expectations from new taxes, induced the General Assembly to assume more than the people could reasonably bear.³ The war had caused the State to lose the portion of its territory containing its greatest potential wealth in coal and timber; the remainder was devastated, and without capital with which to recuperate. The value of agricultural products, the principal dependence, fell off from \$50,000,000 in 1867 to \$30,000,000 in 1876.⁴ Universally money values were falling, and the burden of the debt was thereby increased. In fact, with a 5 mill state property tax and a license on everything from a glass of beer to a commercial traveler,⁵ the total revenues did not exceed \$2,500,000 for more than a decade.

Naturally many were dissatisfied with the settlement. The next year the General Assembly repealed the "tax-receivable coupon feature" of the Funding Bill.⁶ The Virginia court of appeals and the United States Supreme Court declared the act unconstitutional as far as it applied to coupons of bonds already funded. Until the debt question

¹ The governor said in 1873: "Not \$500,000 [of the State's assets] are producing any income to the State, nor is there any probability of their doing so for years to come if owned by her" (Senate Journal, 1873, Doc. No. 8).

² The exact amount was \$1,529,853.

³ Property was assessed higher than in other parts of the Union. The United States Census valuation of all property in Virginia in 1870 was \$409,588,130. The Virginia assessment was \$336,686,433, or 82 per cent. of the United State Census estimate. Throughout the Union the state assessments were only 47 per cent. of the national estimate. The assessed values in 1860, exclusive of West Virginia and slaves, were only \$395,880,191, although the crops of the agricultural State had fallen off enormously. For example, in 1860, 123,968,312 pounds of tobacco were grown almost exclusively in the old State. In 1870 only 37,086,364 pounds were grown. See Senate Journal, 1874-75, Doc. No. 1, page 19.

⁴ Reports of the U. S. Commissioner of Agriculture.

⁵ As early as 1852 a tax of \$200 was imposed on sample merchants. In 1887 this tax was declared unconstitutional except as a police regulation. For example, a liquor sample merchant is now taxed \$500, even though representing a firm located in another state.

⁶ Acts, 1872, Mar. 7.

was settled, the ingenuity of the legislators was taxed to prevent all state income from being paid in coupons. In 1878 and 1879 most of the rural public schools were closed.

In 1879 the bondholders agreed to a reduction in the rate of interest, whereupon the General Assembly of 1879 passed the McCulloch Bill.¹ This act provided for the issue of new bonds which were to be exchanged for outstanding bonds, dollar for dollar, and were to bear interest at 3 per cent. for ten years, 4 per cent. for twenty years, and 5 per cent. for forty years, making an average rate of 4 per cent. for the forty years. The act further provided that all due and unpaid interest might be funded in the new bonds at the rate of 50 cents on the dollar, and that the coupons of these new bonds should be receivable as taxes.

As a result of this act the interest was about \$1,000,000 annually. The charitable institutions were on the verge of bankruptcy. The jails of the State were filled with lunatics, because the asylums had become too poor to receive them. The campaign of 1880 was fought out on these lines. The extreme Readjusters got control of both houses and passed the Riddleberger Bill. Governor Holliday vetoed it. In 1881 the Readjusters pledged themselves to the Riddleberger Bill. Mahone, who controlled the negro vote, joined his party to that of Riddleberger, and the combination carried the State.²

The General Assembly convened in January, 1882, and passed two preliminary bills known as "coupon killers,"³ the purpose of which was to make the McCulloch Bill ineffectual by refusing to redeem the coupons, and thereby forcing the bondholders to accept the conditions to be laid down in the new Riddleberger Bill.⁴ This Riddleberger Act repudiated interest which had accumulated during the war period, thereby scaling the debt about one third. The \$21,-

¹ Acts, 1879, c. 24.

² Both senators, Mahone and Riddleberger, became Republicans.

³ Acts, 1881-82, pp. 10, 37.

⁴ Acts, 1881-82, c. 84.

000,000¹ which it assumed was to bear interest at 3 per cent. instead of 4 per cent., and coupons were not to be received as taxes.

In 1885 the Democrats were back in power; but they were returned on a platform accepting the results of the Riddleberger Act. Under this act only about \$9,000,000 was funded between 1882 and 1892, on which interest was promptly paid. The General Assembly hedged the court decisions against the "coupon killer acts" so effectually that the amount of coupons received as taxes fell from \$1,077,299 in 1880 to \$214,580 in 1889, and the bondholders were about ready to compromise. In 1890 the General Assembly appointed a commission to meet a committee of the bondholders. Most of the bonds were held in England, but New York representatives negotiated; and in 1892 a final settlement of the debt resulted.²

The act making this settlement provided first, that the \$9,000,000 funded under the Riddleberger Act need not be refunded; second, that the variety of original bonds, or bonds which had been funded under any funding act previous to 1882 (which, including interest, aggregated about \$28,000,000), might be collected by the bondholders' committee, and in exchange for this \$28,000,000 the State would issue \$19,000,000 of bonds; third, that this \$19,000,000 should be distributed among the claimants of the \$28,000,000 in such proportions as the bondholders would agree to; fourth, that any bonds not exchanged by this committee³ should be exchanged by the state commissioners at the ratio of 19 new for 28 old, and that the respective value of these different classes of bonds should be the same as that recognized by the committee for the bondholders; fifth, that on these new bonds 2 per cent. should be paid for ten years, and 3 per cent. for ninety years; sixth, that from 1910 until 1929 a sinking fund of one half of one per cent. of the

¹ The exact amount was \$21,035,377.

² Acts, 1891-92, c. 325.

³ The committee guaranteed to hand over bonds to the aggregate amount of \$23,000,000.

whole debt should be annually invested in bonds, to be cancelled; thereafter, one per cent. of the amount of the debt existing in 1830 should be retired annually. The terms of this settlement of 1892 have been strictly complied with.

From time to time all the stocks held by the State have been disposed of,¹ except an insignificant amount in turnpike companies which paid \$286 in dividends in 1910, and 5849 shares of stock in the Richmond, Fredericksburg, and Potomac Railroad Company which paid \$52,641 in dividends the same year.² The policy of the State has been to sell its assets and invest the proceeds in the state bonds which are cancelled.³ Virginia's entire debt, October 1,

¹ Most of these stocks were disposed of at very low figures. Often indirect motives prompted the sale. For example, in 1870 it was feared that the branches of railroads in the State would be so consolidated as to become feeders to Baltimore from Danville through the Piedmont region, and from Bristol through the Valley of Virginia. At least, by so arguing, Mahone had the Consolidation Bill passed which consolidated the three branches now forming the Norfolk and Western Railroad from Bristol to Norfolk. In 1870 the State's stock in these branches was estimated by the second auditor to be worth \$5,524,841. By this Consolidation Bill the State allowed the consolidated road to issue \$15,000,000 of first mortgage bonds and herself accepted \$4,000,000 of second class stock. All the State ever realized from this was \$500,000 in 1882, which the Readjusters used for schools (Senate Journal, 1883-84, Doc. No. 11). See *The Readjuster Movement in Virginia*, now being written by C. C. Pearson.

² When the R. F. and P. R. R. Company was chartered by an act of the General Assembly, February 25, 1834, the State subscribed for and became owner of 2752 shares of stock, for which it paid \$275,200. By 1881 a "considerable surplus had accumulated for the company. Instead of being distributed, this sum was reinvested and dividend obligation script was issued to the stockholders." This bears the same dividends and is on the same footing as the regular stock except that it is without voting power. The State's share was \$172,700. In 1907 additional surplus was distributed, of which the State's share was \$117,000; hence the State now holds stock or this script equivalent to the par value of \$584,900, which in 1910 paid 9 per cent. dividends, or \$52,647. Because of this good investment an act was passed, May 21, 1903 (c. II, sec. 12), which prohibited any other road from paralleling this road, but this prohibition was repealed by chapter 34 of the acts for 1908. See House Journal, 1908, Doc. No. 5, for history of this investment.

³ Since the war, bonds to the par value of \$11,411,191 have been cancelled by the commissioners of the sinking fund; and thirty-odd millions have been paid in interest.

1910, was \$25,380,400, on which \$820,496 interest was paid.¹ Each year the State retires bonds to the extent of one half of one per cent. of the principal (\$120,000 in 1910); plus the dividends from the Richmond, Fredericksburg, and Potomac Railroad Company (\$52,641 in 1910); plus a sum coming to the sinking fund from the general fund as interest on bonds which the sinking fund commissioners have already retired and cancelled (\$18,582); plus dividends from the Berryville Turnpike (\$286 in 1910); plus fees for interchange of bonds (\$152.50 in 1910); or a total of \$191,661.50 for 1910.

In 1894 a commission was appointed by Virginia to bring about a settlement with West Virginia. In 1900 the offer was renewed. In 1905, when the commission visited Charleston to urge a settlement, the legislature of West Virginia passed the following resolution: "Resolved by the legislature of West Virginia, That it is the sense of the legislature that the State of West Virginia does not owe any part of the so-called debt of Virginia, and that this legislature is opposed to any negotiations whatever on that subject."

In the meantime Brown Brothers and Company of New York had collected into their control the greater part of the West Virginia certificates.² They agreed to abide by any settlement Virginia might make, and in 1906 a suit was brought in the Supreme Court of the United States by the Commonwealth of Virginia against the State of West Virginia.³ West Virginia claimed that the greater part of the debt was contracted for public works built within Old Virginia, and that the new State should pay only such part of the debt as was spent within West Virginia. Virginia answered that the works, though built within Virginia, were

¹ No funds were in the sinking fund.

² In 1905 they held \$12,910,555; and in 1910 the Virginia sinking fund held \$2,026,439, the Literary Fund, \$719,022.

³ Of course, individuals could not sue the State of West Virginia; nor could Virginia have sued for them as agent; but Virginia had a contractual interest as a result of West Virginia's constitutional assumption of a portion of the debt.

intended to develop the timber and coal resources of the western part of Virginia, and that the measure providing the revenue could not have been carried in the General Assembly without the votes of delegates from the section now composing West Virginia.

The court apportioned the debt on the basis of property values in 1861, excluding slaves. This made West Virginia's portion of principal in 1861 \$7,182,507, instead of about \$11,000,000, as was claimed by Virginia. The question of interest since 1861 was not decided, the court advising the parties to settle this question by a conference. In case they cannot come to an agreement the court may be again appealed to. The final amount, whatever it is, will be paid over to the certificate owners by Virginia. The State of Virginia may profit by the settlement to the extent of something less than \$1,000,000. That is, the certificates resulting from the state stocks which accrued to the Sinking Fund since 1861 should come in for their share of the \$7,182,507 plus whatever interest may be allowed. The certificates held by the Literary Fund accrued from state stocks held previous to 1861, and it is not likely that these will come in for any portion.

CHAPTER VIII.

CENTRALIZING TENDENCIES AND NEEDS.

Departments.—No form of state government is absolutely good or absolutely bad. When Virginia declared her independence of England, hereditary monarchs of centralized states were, as a rule, oppressive and inefficient. Therefore such expressions as “personal liberty” or “local self-government” became popular shibboleths of reform parties. Personal liberty in some respects was unduly hampered, and centralized authority in the hands of an inefficient or corrupt monarch or court party was oppressive. Virginia went to the other extreme by providing for an extremely decentralized administration. Her executive was given very limited administrative powers; but the officers of small counties were given most of the administrative functions essential to a civilized state of that time. How did the extreme “personal liberty” and “local self-government” tendencies of that period work out in practice?

With regard to education, the wealthy had the “personal liberty” to employ a private tutor or governess for their children, and to pay the tuition of a preparatory school or college.¹ Those without means had not this liberty; and as a result Virginia, which ranked sixth in wealth, had a greater percentage of white illiterates in 1860 than twenty-six other states which had more or less centralized public school systems.² For nearly a century the “local self-government” counties made desultory attempts to establish county public school systems, but practically all that was accomplished was

¹ In 1860 Virginia ranked first in the total income of colleges, including tuition, though she ranked fifth in total population, and thirteenth in white population (Eighth Census of the United States, Vol. IV, p. 505).

² Report of the Commissioner of Education, 1870, p. 478.

the distribution of the central Literary Fund to poor children.

From the time that the public school system was established, in 1870, until 1905 district officers performed the functions of building school-houses; and during the thirty-five years the total value of school-houses had increased to only \$4,000,000. From 1905 until 1910, under an effort by the central department, with no cost to the State, the value increased from \$4,000,000 to \$8,000,000.

Though the administration of the central penitentiary has not been the best, it has been far superior to that of the county jails. The penitentiary has become practically self-sustaining, while no county jail has approached this. The change from local sheriffs to central penitentiary guards to convey convicts to the penitentiary reduced the cost one half.

Because of lack of funds there is much room for improvement in the state hospitals for the insane, yet how infinitely better are they administered than the county almshouses. And, as occurred in the case of convicts, the cost of conveying insane patients fell off one half when state guards superseded county guards.

Not until within the last four years, when the office of state road commissioner was created and the counties were compelled to build good roads, by a form of conditional return of taxes, did the counties build permanent first-class roads.

County health boards have existed for years, but not until the state commissioner was appointed four years ago was any serious work done in the way of sanitary precautions, excepting a limited amount in cities. In the single item of diphtheria antitoxin this new health department saved the State \$15,000 in 1910 by purchasing the large supply at \$15,000 less than it would have cost the local health boards or druggists.

In agriculture is seen a most striking example of the greater efficiency of centralization. Before the Civil War

no legislation was enacted directly affecting the farmer. Let us follow one line of legislation since the war—fertilizer inspection. The first provision, that all fertilizers should have the ingredients stamped upon the packages, gave the farmer the “personal liberty” of bringing action against the manufacturer who mislabeled his fertilizers; but the farmer did not know where to have the fertilizer analyzed, even if he had been willing to bear the expense and trouble. Next, the State provided a chemist, though the farmer had to pay him fees. Finally the state chemist analyzed it free for farmers. But still the farmer did not avail himself of this “personal liberty.” The farmers of the State continued to lose not less than \$1,000,000 annually, and probably much more, until the central department sent out inspectors to see that the farmers were not deluded into the purchase of fertilizers with high-sounding names.

Until the state corporation commission was created in 1902 with strong legislative, judicial, and executive powers, the railroads had never been coped with, to say nothing of insurance companies and banks.

The assessment of taxes has always been mainly local; and to have the tax payer compare this branch of local administration with the work of the state corporation commission which assesses railroads, mineral lands, and timber lands is to convince him that he need not fear a state tax commission because it would be adding authority to the central state government.

A realization of the greater efficiency that central state departments have over county officers who devote only a portion of their time to public duties has, during the past decade, caused the people to delegate all new functions, and some old ones, to state departments or commissions instead of to county officers. This increase of state functions needs to be coordinated, needs a head; and this head should be the governor.

The Governor.—When Virginia gained her independence of England, the doctrine of the separation of powers was

in its prime. The governor, as the executive side of the triune government, was granted no legislative functions; several judicial functions; and even purely executive or administrative functions were delegated sparingly to him. By the constitution of 1869 he was given the legislative function of vetoing bills passed by the General Assembly; and the constitution of 1902 extended this to any particular item or items of appropriation bills. His judicial functions, for example the pardoning power, have not been materially changed, though it has been decided that he can pardon conditionally as well as grant a complete pardon. His executive powers have shown some increase.

The governor has always had authority to suspend the departmental officers at the seat of government for "misbehavior, incapacity, neglect of official duty, or acts performed without due authority of law." And since 1887 he has had power to suspend a county or city treasurer. But from the Civil War until the Constitutional Convention of 1902 he did not have any important appointments to make, except that he appointed about two hundred members of boards, who in turn appointed administrative heads of the institutions which they controlled. But of the ten new remunerative state offices created by the Constitutional Convention in 1902 or since that time, nine are filled by the governor; among these appointees are three state corporation commissioners, who are scarcely second in importance to the members of the court of appeals. This shows a strong tendency toward placing the appointive power in the hands of the governor.¹

¹ State officers and boards are selected as follows:

Elected by the people:

Governor.

Lieutenant Governor.

Attorney-General.

Secretary of the Commonwealth.

Superintendent of Public Instruction.

Commissioner of Agriculture.

State Treasurer.

Elected by the General Assembly:

Auditor of Public Accounts.

Second Auditor.

The primary duties of a governor are commonly believed to be, and should be, the enforcement of the laws of the State. Yet under the present decentralized system of administration in Virginia the governor has little administrative power. If a local saloon-elected justice of the peace decides a case against the State, and clearly against the law, there is no appeal to a higher court, and the governor has no means by which to enforce the law in that locality.¹ If the justice of the peace send a case to the grand jury, but the county-elected commonwealth-attorney allow the case to drop, the governor is helpless. And if the grand jury have an accused person confined in a jail awaiting trial by

Register of the Land Office.

Superintendent of Public Printing.

Commissioner of Insurance.

Elected by the General Assembly, but nominated by boards of state schools:

State Board of Education.

Appointed by the Governor:

Adjutant General.

State Corporation Commissioners (three).

Commissioner of Labor.

Commissioner of State Hospitals.

State Highway Commissioner.

Health Commissioner.

Dairy and Food Commissioner.

Secretary of Virginia Military Records.

Military Staff.

Board of Accountancy (five).

Visitors for eleven state schools (ninety-four).

Boards of Examiners for pharmacists, dentists, graduate nurses, veterinarians, embalmers, lawyers (forty-six).

Board of Charities and Corrections (five).

Board of Agriculture and Immigration (eleven).

Penitentiary Board (five).

Board of Fisheries.

Directors for five hospitals for the insane (fifteen).

Board of Health (twelve).

Notaries Public (numerous).

¹ This was illustrated by book-making at the Jamestown races. A local justice of the peace decided that the gambling was not contrary to the state law, though it was clearly so. The governor was powerless against the justice of the peace, though he has directed the attorney-general to revoke the charter of the corporation which permits this gambling. It seems that no harm could result if the governor could demand an appeal, on the part of the State, direct to the supreme court of appeals. Of course he would seldom make use of this right, but where one locality is violating a law in a manner which effects surrounding portions of the State, redress should be had somewhere.

a petit jury, and there is reason to believe that the county-elected sheriff will allow him to be lynched, the governor must be very cautious in warning the sheriff, lest he receive the reply that it is none of his business. Yet the governor is expected to see that the laws are faithfully executed.

The governor of Virginia is not at the head of a system. He works with department heads who may be subordinate or insubordinate, as they like. The idea of the division of powers would have broken down long ago but for two reasons; first, because people have been willing to put up with inefficiency; second, the three branches have been coordinated by a political boss or political clique, self-made, who rise above the three branches of government. Even if the governor be given great power, the political boss or clique, as the case may be, will still endeavor to elect him; but when he has powers and does not exert them, the people can know why, and there would no longer be excuse for inefficiency. An inefficient or corrupt governor, if not impeached sooner, is out of office in four years; but a hundred intangible leaks run forever.

It is no longer a question of centralized state government or decentralized state government; it is a question of centralized state government or more centralized national government. People want efficiency, and if the State will not give it, they want it from the National Government. Not long since, Mr. Root, then secretary of state, doubtless upon the initiative of his chief, stated publicly that unless the States perform more satisfactorily the duties allotted them in the scheme of our government, means will be found, by construction of the Federal Constitution, to take from them and confer upon the general government the control of such subjects (now admitted to be reserved to the States) as touch upon the common interests of the American people. Mr. Raleigh C. Minor, of the University of Virginia Law School, in a paper read before the 1910 meeting of the Virginia Bar Association, concludes that the only hope for the States is in greater efficiency; and that the only means

of greater efficiency is by centralizing administration in the governor.

There seems to be no sufficient reason why the administrative department of the state government should not be fashioned according to the system of the general government. Then the governor would appoint heads of all departments. For example, he would appoint for his cabinet the secretary of the Commonwealth, state auditor, attorney-general, superintendent of public instruction, commissioner of agriculture, commissioner of health, and perhaps one or two additional commissioners. These would be directly responsible to the governor; but they would appoint heads of bureaus who in turn would appoint their subordinates. To give one example, the department of agriculture would appear somewhat as follows:

- A. Bureau of Experimentation, with state experimenter appointed by the commissioner.
 - 1. Central Experiment Station.
 - 2. District Experiment Stations.
 - 3. High School Experiment Plots.
 - 4. Demonstration Extension Work.
 - 5. Boys' Corn Clubs.
- B. Bureau of Teaching, with president of Agricultural College appointed by the commissioner.
 - 1. College.
 - 2. Movable Schools of Agriculture.
 - 3. Farmers' Institutes.
 - 4. Agricultural Departments of High Schools.
 - 5. Immigration.
- C. Bureau of Police (Inspection), with state inspector appointed by the commissioner.
 - 1. Fertilizer Inspection.
 - 2. Seed Inspection.
 - 3. Food and Feed Inspection.
 - 4. Dairy Inspection.
 - 5. Live Stock Inspection.
 - 6. Nursery and Orchard Inspection.

Conclusions.—The summarized ideas of the writer regarding the organization of the state departments into a system of individual responsibility, with the governor at the head of the system, are found already expressed as follows:¹

“1. The Governor should *appoint, and be responsible for all executive subordinates.*

“2. Each separate office, or department, should be managed by *one man.*

“3. Each responsible officer should be a *permanent expert, paid by an adequate salary, not by fees.*

“4. The various departments should be *organized systematically*, so that the responsibility of each is made *exclusive, definite, and tangible.*”

To complete this system by which greater efficiency is made possible, the head of each department should have the right to address either branch of the General Assembly upon matters relating to his department. And each branch of the General Assembly should have the corresponding right to compel the head of a department to attend, and to answer questions.² This reciprocal privilege would both give the departmental head an opportunity to make his needs known more clearly than he can possibly do in a report, and would give the legislators an opportunity to bring to light any loose or corrupt practices.

¹ H. B. Heneway summarized these principles of individual responsibility, organized into a system of government, in an article on “The Organization of the State Executive in Illinois,” in *Illinois Law Review*, June, 1911.

² This cabinet idea is advocated by ex-Governor Montague in an address delivered at the meeting of the Pennsylvania Bar Association, June, 1911.

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VITA.

The author of this dissertation, Frank Abbott Magruder, was born in Woodstock, Virginia, May 6, 1882. He prepared for college at Massanutten Academy; and, after spending four years at Washington and Lee University received the degree of Bachelor of Arts in 1905. During the session of 1905-1906 he was principal of the Greenbrier Graded School, in Rockton, South Carolina; and from 1906 until 1908 taught history and English at the Millersburg Military Institute, in Millersburg, Kentucky. He entered Johns Hopkins University in 1908, and was Fellow in Political Science, 1910-1911.

